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A COLLECTION

OF

THE ACTS

PASSED BY THE

GOVERNOR GENERAL OF INDIA IN COUNCIL

IN THE YEAR 1866.

CALCUTTA:
OFFICE OF SUPERINTENDENT GOVERNMENT PRINTING,
4, HASTINGS STREET.

1867.

GOVERNMENT OF INDIA LEGISLATIVE DEPARTMENT

TITLES

OF

ACTS PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL

IN THE YEAR 1866.

ACT No.	I.	An Act to amend Act No. XIX of 1861 (to provide for a Government paper Currency).
—	II.	to amend Act No. II of 1865.
—	III.	to confer certain increased powers on the Registrars of the Recorders' Courts in British Burmah, and for other purposes.
—	IV.	to amend the constitution of the Chief Court of Judicature in the Punjab and its Dependencies.
—	V.	to provide a summary procedure on Bills of Exchange and to amend in certain respects the Commercial Law of British India.
—	VI.	to continue Act No. XXXI of 1860 (relating to the manufacture, importation and sale of arms and ammunition, and for regulating the right to keep and use the same, and to give power of disarming in certain cases) and for other purposes.
—	VII.	to extend to the Court of Judicature of Prince of Wales' Island, Singapore and Malacca Act No. XXIII of 1840 (for executing within the local limits of the jurisdiction of Her Majesty's Courts legal process issued by Authorities in the Mofussil).
—	VIII.	further to amend the Schedule annexed to the Code of Criminal Procedure.
—	IX.	to extend to the Sudder Court of the North-Western Provinces certain provisions of "The Pleaders, Mookhtars and Revenue Agents' Act, 1865" and of Act No. XXIX of 1865.
—	X.	for the incorporation, regulation, and winding-up of Trading Companies and other Associations.
—	XI.	to repeal Act No. IV of 1855 (for incorporating for a further period, and for giving further powers to the Assam Company).
—	XII.	to provide for the compulsory taking of rights to form and maintain private water-courses from public works of irrigation.

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ACT No. XIII. An Act to exempt certain suits in Oude from the operation of the rules of limitation in force in that Province.

— XIV. to amend the law for the management of the Post Office, for the regulation of the Duties of Postage, and for the punishment of offences against the Post Office.

— XV. to amend the Law of Partnership in India.

— XVI. to relieve the Governor-General of India in Council from the duty of signing the Commissions mentioned in Sections 22 and 44 of the High Courts' Criminal Procedure Amendment Act, 1865.

— XVII. to provide for the establishment of a Public Museum at Calcutta.

— XVIII. to alter the Customs duty on the export of Saltpetre.

— XIX. to enhance the price of Salt manufactured and sold under the orders of the Governor of the Presidency of Fort Saint George in Council.

— XX. to provide for the Registration of Assurances.

— XXI. to legalize, under certain circumstances, the dissolution of marriages of Native Converts to Christianity.

— XXII. to extend the Indian Marriage Act, 1865, to the Hyderabad Assigned Districts and the Cantonments of Secunderabad, Trimungerry and Aurungabad.

— XXIII. to correct two clerical errors in the Letters Patent for the High Court of Judicature for the Presidency of Bombay.

— XXIV. to amend the procedure of the High Court of Judicature for the North-Western Provinces of the Presidency of Fort William.

— XXV. to transfer to the Government of India certain securities and monies deposited in the High Courts of Judicature at Fort William, Madras and Bombay and in the Supreme Court of the Straits' Settlement, and the proceeds of certain estates in the charge of the Administrator General of Bengal.

— XXVI. to legalize the rules made by the Chief Commissioner of Oudh for the better determination of certain claims of subordinate proprietors in that Province.

— XXVII. to consolidate and amend the law relating to the conveyance and transfer of property in British India vested in Mortgagees and Trustees, in cases to which English Law is applicable.

— XXVIII. to give to Trustees, Mortgagees and others, in cases to which English Law is applicable, certain powers now commonly inserted in Settlements, Mortgages and Wills, and to amend the Law of property and relieve Trustees.

Act No. XXIX. An Act to enlarge the jurisdiction of the Courts of Requests in the Settlement of Prince of Wales' Island, Singapore and Malacca.

XXX. for amending the laws for collecting a Revenue of Excise on Spirituous Liquors and Intoxicating Drugs in the Settlement of Prince of Wales' Island, Singapore and Malacca.

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GOVERNMENT OF INDIA LEGISLATIVE DEPARTMENT

ACT No. I of 1866.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 5th January 1866).

An Act to amend Act No. XIX of 1861 (to provide for a Government Paper Currency).

Preamble.

Whereas it is expedient to amend Act No. XIX of 1861 *(to provide for a Government Paper Currency)*; It is enacted as follows :—

Addition to Section 9 of Act XIX of 1861.

1. The ninth Section of the said Act shall be read as if after the words "Provided that the said Head Commissioner, Commissioners, Deputy Commissioners, and Agents shall, in all cases, be entitled to require such silver bullion and foreign coin to be melted and assayed at the expense of the person tendering the same," the following words were inserted (that is to say),—

"Every person so tendering bullion or foreign coin and depositing the same in any such Office or Agency shall be entitled to receive therefor a certificate signed by the person or persons authorized to issue the Notes aforesaid, which certificate shall acknowledge the receipt of such bullion or foreign coin, and shall state the value thereof after deducting the expense of melting and assaying the same, and shall also state the interval (which the Governor-General in Council shall from time to time fix by notification in the Gazette of India) on the expiration of which, if such certificate be presented to such Office or Agency, the holder shall be entitled to receive Promissory Notes in exchange for the said bullion or foreign coin at the rate and subject to the deduction aforesaid: and no person so tendering as aforesaid and receiving such certificate shall be entitled to receive such Notes previous to the expiration of the interval so stated in the said certificate. But nothing herein contained shall preclude the person or persons so authorized from issuing, if he or they shall think fit, Notes in exchange for bullion or foreign coin at the rate and subject as aforesaid."

Short Title.

2. This Act shall be called "The Currency Act Amendment Act, 1866."

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Military Orphan Press—No. 80, L. C.—30-1-66—2,500.

ACT No. II of 1866.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 12th January 1866).

An Act to amend Act No. II of 1865.

Preamble.

Whereas it is expedient to amend Act No. II of 1865 *(to provide for the maintenance of the Rural Police in the Territories under the Government of the Lieutenant-Governor of the North-Western Provinces and elsewhere)*; It is enacted as follows :—

Power to the Collector to assess the proprietor where the latter has not made any or an insufficient assessment under Section 2 of Act No. II of 1865.

1. If any proprietor of an estate, authorized to make an assessment under the second Section of the said Act, shall fail altogether to make such assessment, or shall assess under the said Section a sum which the Collector of the District in which such estate is situate shall consider inadequate, it shall be lawful for such Collector to assess upon such estate for the purposes aforesaid, a sum payable yearly by the proprietor, not exceeding nine-tenths of the amount which might have been raised in each year under the said Section. Such assessment shall be exclusive of the Municipal cess or per-centage mentioned in the sixth Section of the said Act.

Local Government empowered to make rules as to extent and exercise of the authority conferred by Section 1.

2. The Local Government may from time to time lay down rules respecting the extent and exercise of the authority conferred by the last preceding Section, and such authority shall be subject to the rules aforesaid.

This Act to be construed with Act No. II of 1865.

3 This Act shall be read and taken as part of the said Act No. II of 1865.

Short title.

4. This Act shall be called " The Rural Police Act Amendment Act, 1866."

PRICE ONE ANNA.

Military Orphan Press.—No 70 L. C.—17-1-66.—2,000.

ACT No. III of 1866.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 26th January 1866).

An Act to confer certain increased powers on the Registrars of the Recorders' Courts in British Burmah, and for other purposes.

Preamble.

Whereas it is expedient to confer upon the several Registrars of the Recorders' Courts in British Burmah certain increased powers; It is enacted as follows :—

Power to Registrars appointed under Act XXI of 1863 to make certain orders interlocutory.

1. Every Registrar appointed under Act No. XXI of 1863 *(to constitute Recorders' Courts for the Towns of Akyab, Rangoon and Moulmein in British Burmah, and to establish Courts of Small Causes in the said Towns)* may, in the absence of the Recorder of the Court to which such Registrar is appointed, make all such orders for arrest before judgment, for attachment of property before judgment, for the protection, management, and custody of property in dispute in any suit, for injunctions restraining breaches of contract or wrongful acts, as such Recorder if present might make.

Such orders may be altered or reversed on application.

2. Every order made by any Registrar in the exercise of the powers conferred upon him by this Act may be altered or reversed upon the application of any person, whether a party to the suit or not, who may deem himself to be aggrieved by such order.

Application may be made to and disposed of by Registrar.

3. Every such application may be made to and disposed of by the Registrar of the Court in which such order shall have been made in the absence of the Recorder of such Court.

Registrar to take down evidence

4. The Registrar to whom any such application shall be made, shall take down the evidence given upon the hearing of such application.

Appeal against orders made by Registrar.

5. Every order made by a Registrar in pursuance of this Act shall be subject to an appeal, under the general rules applicable to appeals from orders, to the Recorder of the Court by the Registrar of which such order shall have been made.

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Power to appeal to Recorder in his absence.

6. In case of the absence of the Recorder before whom the appeal is brought, the person appealing may make such application by way of petition, and may require the Registrar from whose order such appeal shall be brought, to transmit to such Recorder copies of such petition and of all the evidence received by the Registrar upon the hearing of the application from the order upon which such appeal shall have been brought.

Power to Recorder to alter or reverse the order appealed against.

7. Such Recorder may affirm, alter, or reverse the order from which such appeal shall be brought, or postpone the further consideration of such appeal until the next sittings of the Court in which such order shall have been made.

Time within which appeals to be brought.

8. No appeal from any order made by any Registrar under the powers conferred by this Act, nor any application to alter or reverse such order, shall be brought after the conclusion of the sittings of the Court in which such order shall have been made, which shall commence next after the making of such order.

Registrar to receive affidavits and administer oaths

9. Every Registrar appointed under the said Act shall have power to receive affidavits and to administer oaths and affirmations in all suits which may or shall be depending in any Court established under the said Act.

Trial of case in which Recorder is a party or witness.

10. In case the Recorder of any Court established under the said Act shall be a party, or a necessary witness to or in any suit or proceeding instituted in such Court, such suit or proceeding and all applications therein shall be heard and determined by the Commissioner of the Division in which such Court shall be situated, and such Commissioner shall in every such suit or proceeding have and exercise all the powers by the said Act or by this Act vested in such Recorder.

Provision for vacancy of the Office of Recorder.

11. Upon the happening of a vacancy in the Office of Recorder and during any absence of a Recorder from British Burmah, the Governor-General of India in Council shall appoint any person with such qualifications as are required by the said Act in persons to be appointed Recorders, to perform the duties of Recorder. The person so appointed shall be authorized to sit and perform the duties of Recorder until some person shall have been appointed by the Governor-General in Council to the Office of Recorder and shall have entered on the discharge of the duties of such Office, or until the Recorder shall have returned from such absence.

12. So

Registrar's powers as a Small Cause Court Judge exerciseable by Recorder.

12. So far as regards Small Causes, all or any of the powers and duties conferred and imposed on any Registrar by this Act or under or by virtue of Sections thirty-five and thirty-six of Act No. XXI of 1863, may be exercised and performed by the Recorder of the Court to which such Registrar is attached.

Power to appoint an Officiating Registrar.

13. Whenever any person holding the Office of Registrar under Act No. XXI of 1863, shall obtain leave of absence or be disabled through illness from performing his duties, it shall be lawful for the Recorder of the Court to which such Registrar is attached, or, in his absence, for the Commissioner of the Division in which such Court is situate, to appoint some person to officiate as Registrar; and such person while so officiating shall have the same powers and perform the same duties as the Registrar of such Court under this Act and any other law for the time being in force. Any person appointed under this Section may hold at the same time any other Office under Government.

Power to make rules of practice.

14. The Recorder of any Court established under the said Act shall have power to make and issue general rules for regulating the practice and procedure of his Court, and to prescribe forms for every proceeding therein for which he shall think that a form should be provided, and from time to time to alter any such rule or form; and the rules so made, and the forms so framed, shall be published in the Official Gazette, and after being so published shall be observed and used in the said Court: Provided that such rules and forms shall not be inconsistent with the Code of Civil Procedure or any other law for the time being in force, and shall, before they are published, have received the sanction of the Chief Commissioner of British Burmah.

This Act to be read with Act XXI of 1863.

15. This Act shall be read with, and taken as part of, the said Act No. XXI of 1863.

Military Orphan Press —No. 84 L. C —2-2-66 —2,000

ACT No. IV of 1866.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 16th February 1866.)

An Act to amend the constitution of the Chief Court of Judicature in the Punjab and its Dependencies.

Preamble.

WHEREAS it is expedient to amend the constitution of the Court of the Judicial Commissioner of the Punjab and its Dependencies, and to invest the Judges of the Court constituted under this Act with an original jurisdiction for the trial of certain Civil and Criminal cases; And whereas the Secretary of State for India in Council has given his previous sanction to the passing of this Act; It is enacted as follows:—

Interpretation of terms

1. In this Act, unless there be something repugnant in the subject or context—

"Punjab."

"Punjab" means the Territories for the time being under the Government of the Lieutenant-Governor of the Punjab and its Dependencies.

"Lieutenant-Governor."

"Lieutenant-Governor" means the Lieutenant-Governor for the time being of the Punjab.

"Chief Court."

"Chief Court" means the Chief Court of the Punjab constituted under this Act.

"Judge," "Registrar."

"Judge," "Registrar," and other words denoting any particular Officer respectively include any person for the time being authorized to act as such Judge, Registrar or other Officer.

"Magistrate."

"Magistrate" denotes any person exercising any of the powers of a Magistrate as defined in the Code of Criminal Procedure.

"Barrister"

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"Barrister."

"Barrister" includes Barristers of England or Ireland, and Members of the Faculty of Advocates in Scotland.

"Section."

"Section" denotes a Section of this Act.

Number

Words in the singular include the plural: words in the plural include the singular.

Gender.

Words importing the masculine gender include females.

Constitution of Chief Court.

2. The Court constituted under this Act shall be styled the Chief Court of the Punjab, and shall consist of two or more Judges, who shall be appointed by the Governor-General of India in Council, and of whom one at least shall always be a Barrister of not less than five years' standing: Provided that the person who at the time of the constitution of the Chief Court shall be the Judicial Commissioner of the Punjab, shall become a Judge of such Court without further appointment for that purpose.

Precedence of Judges of Chief Court.

3. The Judges of the Chief Court shall have rank and precedence in the Court according to the seniority of their appointments as such Judges.

Tenure of office of Judges of Chief Court.

4. The Judges of the Chief Court shall hold their offices during the pleasure of the Governor-General of India in Council.

Declaration to be made by persons appointed Judges of Chief Court.

5. Previously to entering on the execution of the duties of his office, every Judge appointed under this Act shall make or subscribe the following declaration before the Lieutenant-Governor or such authority or person as he may commission to receive the same:—

"I, A. B., appointed Judge of the Chief Court of the Punjab, do solemnly declare that I will faithfully perform the duties of my office to the best of my ability, knowledge, and judgment."

Appointment of Registrar.

6. The Judges of the Chief Court with the sanction of the Lieutenant-Governor may, from time to time, appoint a person to be the Registrar of the said Court. The Registrar shall be the principal Ministerial Officer of the Court, and shall have such powers, and perform such duties, as shall be given and assigned to him by the Court by any rule duly made by the Court under the forty-fourth Section.

7. The

Appointment and removal of Ministerial Officers.

7. The Judges of the Chief Court may, from time to time, and subject to any rules and restrictions which may be prescribed by the Governor-General of India in Council, appoint a Deputy Registrar and such and so many Clerks and other Ministerial Officers as shall be found necessary for the administration of justice by such Court, and the due execution of the powers and authorities given to it by this Act.

Dismissal of Officers of Court.

8. Every Officer appointed under either of the last two preceding Sections shall be liable to dismissal by order of the Chief Court: Provided that neither the Registrar nor Deputy Registrar shall be removed from office without the sanction of the Lieutenant-Governor.

Seal of Chief Court.

9. The Chief Court shall have, and use as occasion may require, a Seal with this inscription, "The Seal of the Chief Court of the Punjab", to be made under the directions of the Lieutenant-Governor; and all summonses, decrees and other process issuing out of the Court shall be stamped with such Seal, and signed by a Judge or the Registrar or Deputy Registrar of the Court.

Processes to be sealed with Court Seal, and signed by Judge or Registrar.

Agent for Secretary of State, suitors and Advocates, &c., of High Courts may appear and plead.

10. Any person duly authorized by the Secretary of State for India in Council to appear, plead or act on his behalf; (2) any suitor appearing, pleading or acting on his own behalf or on behalf of a co-suitor; (3) any person who, for the time being, is an Advocate, Vakeel or Attorney-at-law of any of the High Courts of Judicature in India or of the Sudder Court of the North-Western Provinces,—shall be permitted to appear and act as the Pleader of any suitor in the Chief Court in any suit or touching any matter whatever.

Licensing of Pleaders.

Save as aforesaid, no person shall be permitted to appear or act as the Pleader of any suitor in the Chief Court in any suit or touching any matter whatever, unless such person shall have been previously licensed by the Court to act for the suitors of such Court generally, or specially for the particular occasion. It shall be lawful for the Judges to make rules for the qualifications and admission of proper persons to act as Pleaders in the Court.

Rules regarding their qualifications and admission.

11. The

11. The Chief Court may for sufficient reason revoke any license which the Court shall at any time grant to any person to act generally or specially as a Pleader under this Act, and may for sufficient reason suspend any person whatsoever from appearing or acting as a Pleader in any suit, or touching any matter.

Power to suspend or revoke Pleaders' license.

12. The fees to be received by any Pleader, other than an Advocate of a High Court, shall be subject to the order and control of the Court, and no fees shall be recoverable by any such Pleader except such fees as shall be allowed under the forty-fourth Section.

Fees of Pleaders to be subject to control.

13. The Chief Court shall be the highest Court of Appeal from the Civil and Criminal Courts in the Punjab, and shall (subject to the provision hereinafter contained) be the only Court exercising appellate jurisdiction in such cases (whether relating to the title or succession to land or to the possession or any right in respect of land or otherwise) as are subject to appeal to the highest Civil and Criminal Court in the Punjab, by virtue of any law or practice now in force, or as shall become subject to appeal to the Chief Court by virtue of any law hereafter made by the Governor-General of India in Council. Provided that when a Settlement of Land Revenue shall be in progress, and the Local Government, under Act No. XIX of 1865 (*to define the jurisdiction of the Courts of Judicature of the Punjab and its Dependencies*) shall have invested the Financial Commissioner of the Punjab with the power of a Court of final appeal in any class of suits regarding land, or the rent revenue or produce of land, the jurisdiction of the Chief Court shall, so far as regards such class of suits, be barred during the continuance of the power with which such Commissioner shall have been so invested.

The Chief Court to be the ultimate Court of Appeal from the Civil and Criminal Courts in the Punjab.

14. The Chief Court may remove and try and determine as a Court of original jurisdiction any suit being or falling within the jurisdiction of any Court subject to its superintendence when the Chief Court shall think proper to do so, either on the agreement of the parties to that effect, or for purposes of justice.

Extraordinary original Civil jurisdiction.

15. The Chief Court may withdraw any suit or appeal from any Court subject to its superintendence other than a Court of Small Causes or a Court of a Cantonment Magistrate, and refer such suit or appeal for trial to any other subordinate Court competent in respect of the value or amount of the suit to try the same.

Power to transfer suits and appeals from one subordinate Court to another.

16. The

16. The Chief Court may call for the record of any case decided by any Court of Small Causes, or on appeal by any Court subject to its superintendence in which no appeal shall lie to the Chief Court, if such Court of Small Causes or subordinate Court in hearing the appeal shall appear to have exercised a jurisdiction not vested in it by law.

Power to call for record of cases decided by subordinate Courts.

17. All special appeals preferred after the date on which the Chief Court is established, from the decrees of Civil Courts of whatever grade in the Punjab, shall lie to and shall be heard by the Chief Court only, and not by any other Court.

Special appeal from Courts in Punjab to lie only to Chief Court.

18. Save as in this Act is otherwise provided, the proceedings in the Chief Court in Civil suits of every description between party and party shall be regulated by the rules relating to Civil Procedure for the time being in force in the Punjab.

Regulation of proceedings in Civil suits.

19. In the exercise of its Civil jurisdiction, Original as well as Appellate, such rules of law or equity and good conscience shall (until otherwise provided) be applied by the Chief Court in each case coming before it, as would have been applicable to such case by any local Court having jurisdiction therein.

In exercise of its Civil jurisdiction, law of the local Courts to apply.

20. The Chief Court shall have power, as a Court of original jurisdiction, to try European British subjects committed to it for trial; and from the date on which this Act shall come into operation, no commitment of a European British subject for trial by a High Court of Judicature, shall be made by any Court or Officer in the Punjab; but every commitment which, if this Act had not been passed, could have been made to a High Court, shall be made to the Chief Court. Whenever any such European British subject shall be committed or bailed for trial before the Chief Court, the Chief Court shall direct at what place within the limits of its jurisdiction the trial shall be held.

Power to try European British subjects.

21. Any Justice of the Peace or Magistrate who shall commit to custody or hold to bail any European British subject for trial before the Chief Court, shall, together with the record of the preliminary enquiry and all recognizances and other documents and any weapon or article of property connected with the case, deliver

Charge to be delivered to Registrar with commitment of European British subject.

deliver to the Registrar of the Chief Court a written instrument of charge signed by him, stating for what offence such European British subject is so committed or held to bail.

Chief Court to consider, and, if it will, to amend, alter or add to the charge.

Charge with amendments, alterations or additions (if any) to be recorded

22. The Chief Court shall consider the charge, and may, if it appear necessary or expedient so to do, amend, alter or add to the same. The charge, with such amendments, alterations or additions, if any, shall be recorded in the Chief Court, and the person charged shall be entitled to have a copy of such charge with such amendments, alterations or additions (if any) gratis.

Accused to have copies of examinations

23. The person charged shall also, if he demands them at a reasonable time before the trial, be furnished with copies of the depositions of the witnesses upon whose depositions he has been so committed or held to bail, on payment of a reasonable sum for the same, not exceeding one anna for each folio of ninety words.

Effect of charge.

24. Upon charges recorded as aforesaid, persons committed to custody or held to bail shall be deemed to have been brought before the Chief Court in due course of law, and (subject to the provisions contained in the Code of Criminal Procedure as to the amendment and alteration of charges, and subject also to the provisions of the next following Section) shall be tried upon the charges so recorded.

Chief Court may order an unsustainable charge not to be proceeded with.

Effect of such order.

25. When any such charge shall have been recorded in the Chief Court as aforesaid, and shall at any time before the commencement of the trial of the person charged appear to the Chief Court to be clearly unsustainable, an entry to that effect may be made on the charge by a Judge of the Court. Such entry shall have the effect of staying proceedings upon the charge, but shall not operate as an acquittal of the person charged unless and until three years from the time of making the entry shall have elapsed, at the expiration of which period, if no fresh charge have been brought on the same matter, he shall be considered as having been acquitted.

Places of holding sittings.

26. The Chief Court shall ordinarily hold its sittings at the seat of Government of the Punjab: but it may from time to time, with the approval of the Lieutenant-Governor, hold sittings at such other places in the Punjab as shall seem convenient. Due notice shall be

be given beforehand in the Official Gazette of all sittings intended to be held for the trial of cases in the exercise of the original Criminal jurisdiction of the Court.

Procedure pending directions of Chief Court as to place of trial of European British subject.

27. Pending the directions of the Chief Court as to the place of trial, every such European British subject as is referred to in the twenty-first Section shall (if not out on bail) be committed by the Justice of the Peace or Magistrate for intermediate custody to the nearest Criminal jail in which he can be most conveniently confined. If the trial shall be directed to be held at the usual place of sitting of the Court, the Justice of the Peace or Magistrate shall bind over the person charged to appear and take his trial at such usual place of sitting, or shall commit him to the jail at such place. If the Chief Court shall direct that the person charged be tried elsewhere than at its usual place of sitting, the Justice of the Peace or Magistrate shall bind him over to appear and take his trial at the place directed, or shall, if necessary, cause him to be removed to the Criminal jail of or nearest to the place at which he is directed to be tried; and the Officer in charge of such Criminal jail shall keep him in safe custody until discharged in due course of law.

Chief Court may order European British subjects committed in certain Districts in certain seasons of the year to be tried at a particular place and confined in a particular jail.

28. It shall be lawful for the Chief Court to direct that all European British subjects committed or bailed for trial within certain specified Districts or during certain specified periods of the year, shall be tried at the usual place of sitting of the Court, or to direct that they shall be tried at a particular place named, and also to order that such European British subjects shall, if not bailed, be committed for intermediate custody to a particular jail, being one of the jails appointed by the Government for the reception of such prisoners.

Trials under Section 20 to be by Jury.

29. All trials under the twentieth Section shall be by Jury.

Summoning of Jurors to serve on trials.

30. Whenever the Chief Court shall have given notice of its intention to hold sittings at any place (whether at the seat of Government of the Punjab or otherwise) for the exercise of its original Criminal jurisdiction, the Court of Session at such place shall take and cause to be taken the measures prescribed by Sections three hundred and thirty-six to three hundred and forty, both inclusive, of the Code of Criminal

Criminal Procedure for the summoning of Jurors; and in addition to the persons so summoned as Jurors, the said Court of Session shall, if it shall think needful, after communication with the Commanding Officer, cause to be summoned such number of Commissioned and Non-Commissioned Officers in the Military service resident within ten miles of its place of sitting as the Court shall consider to be necessary to make up the Juries required for the trial of European British subjects charged with offences before the Chief Court as aforesaid. All Commissioned and Non-Commissioned Officers so summoned shall be liable to serve on such Juries notwithstanding anything contained in the Code of Criminal Procedure, but no Commissioned or Non-Commissioned Officer shall be summoned whom his Commanding Officer shall desire to have excused on the ground of urgent Military duty or for any other special Military reason. The Juries for the trial of European British subjects as aforesaid shall be formed in the manner required by the Code of Criminal Procedure and by this Act from the persons summoned under the said Sections of the Code of Criminal Procedure, and from the Commissioned and Non-Commissioned Officers summoned as aforesaid, or, if no such Officers have been summoned, then solely from the persons summoned under the same Sections.

Military men not exempt.

31. If any European British subject charged as aforesaid shall so require before the Jury shall be empannelled, the majority of the Jurors shall consist of Europeans or Americans or both Europeans and Americans.

Jury for trial of European British subject.

32 On every trial of an European British subject under this Act, the Jury shall consist of twelve persons, and unanimity, or a majority of not less than nine with the concurrence of the presiding Judge, shall be necessary for a verdict of guilty. In default of such unanimity, or of such majority and concurrence, the prisoner shall be acquitted.

Number of Jury requisite to verdict of guilty.

33. So much of the three hundred and eightieth Section of the Code of Criminal Procedure as requires the confirmation by the Sudder Court of sentences of death passed by a Court of Session, and so much of the said Section as requires from the Court a statement of the grounds on which a person convicted of an offence made punishable by death by the Indian Penal Code has

Portions of Section 380 of Criminal Procedure Code not to apply to sentences by Chief Court.

has been sentenced to a punishment other than death, shall not apply to sentences by the Chief Court passed in the exercise of its original Criminal jurisdiction.

Portion of 26th Chapter of Criminal Procedure Code not to apply to sentences of Court.

34. So much of the twenty-sixth Chapter of the Code of Criminal Procedure as requires judgment to be passed by a Criminal Court in any particular form, and as requires that the sentence or finding shall be recorded in any particular form, shall not apply to judgments, sentences or findings in trials before the Chief Court acting in the exercise of its original Criminal jurisdiction; but the Chief Court shall pass judgment and shall record or cause to be recorded the sentence and finding in such form as it shall think proper.

Power to single Judge to reserve for Chief Court any question of law or evidence.

35. When any person has been convicted of an offence before a Judge of the Chief Court acting in the exercise of its original Criminal jurisdiction, the Judge, if he think proper, may reserve for the decision of a Court consisting of such Judge and one or more other Judge or Judges of the Chief Court, any question of law or of the admissibility of evidence which has arisen in the course of the trial of such person. If the Judge reserve no such question, he shall forward the prisoner with a copy of his sentence and a warrant for the execution of the same to the Magistrate or other Officer in charge of the jail of the District or place in which the trial was held, and on the receipt of the warrant such Magistrate or other Officer shall proceed as provided in the three hundred and eighty-fifth Section of the Code of Criminal Procedure. If the Judge reserve any question of law or of the admissibility of evidence, the person convicted shall, pending the decision thereon, be remanded to jail. If the decision on the question be adverse to the person convicted, the Court shall send a copy of its sentence and a warrant for the execution of the same to the Magistrate or other Officer in charge of the jail to which the prisoner shall have been remanded, and such Magistrate or other Officer shall proceed as provided in the same Section.

Procedure where no such question reserved.

Save as aforesaid, Criminal Procedure Code to apply to Juries, trials, sentences and execution.

36. Save as is hereinbefore otherwise provided, the Code of Criminal Procedure shall apply to the constitution and formation of Juries for the purpose of trials before the Chief Court acting in the exercise of its original Criminal jurisdiction and to trials before such Court and to sentences by such Court and to the carrying into execution of such sentences.

37. Every

37. Every European British subject apprehended within the Punjab or delivered into the custody of a Magistrate within the Punjab wherever apprehended, shall be amenable to the law for any offence committed by him within the territory of any Foreign Prince or State, and may be bailed or committed for trial as hereinafter provided on the like evidence as would warrant his being bailed or committed for trial for the same offence if it had been committed in the Punjab

European British subjects to be amenable for offences committed in foreign territory.

38. The committing Magistrate immediately and before the trial shall report the case to the Lieutenant-Governor, and shall obey the orders which he shall receive thereon, and the Lieutenant-Governor may order the trial to be had before the Chief Court.

Committing Magistrate to report to the Lieutenant-Governor

39. When the offence is charged to have been committed in the territory of any Foreign Prince or State, administered by Officers acting under the authority of the Government of India, in which territory a Court competent to try the person charged is established by authority of the Governor General of India in Council, the Lieutenant-Governor may order such person to be conveyed in custody out of the Punjab for the purpose of delivering him up for trial before such Court.

If the offence is committed where there is a competent Court, Lieutenant-Governor may take steps to have trial there.

40. When the person charged is committed to custody, the form of the warrant shall specify the commitment to be until the orders of the Lieutenant-Governor can be received and acted on. When he is bailed, the form of the bail-bond shall be in the first instance to appear before the Magistrate on a certain day assigned, allowing reasonable time for the receipt of the orders of the Lieutenant-Governor, and on such subsequent days as the Magistrate shall from time to time require. If the Lieutenant-Governor shall order the person charged to be tried in the Chief Court, the Magistrate may cause the bail-bond to be renewed in the usual form to appear and take his trial in such Court.

Form of warrant of commitment and of bail-bond.

41. In either case the special order of the Lieutenant-Governor shall be deemed full authority either for the trial of the person charged within the Punjab, or for conveying him in custody out of the Punjab as aforesaid.

Order of Lieutenant-Governor to be full authority.

42. No

Two Judges at least necessary to reverse or modify sentences or decrees of Sessions or Civil Judges.

42. No decree of any Civil Court shall be reversed or modified on appeal, and no sentence of any Criminal Court shall be reversed or modified on appeal or revision, save by the order of not less than two Judges of the Chief Court.

Chief Court may provide for exercise of the Court's jurisdiction by one or more of its Judges.

43. Save as herein otherwise provided, the Chief Court may by its own rules provide for the exercise, by one or more Judges, of the original and appellate jurisdiction vested in such Court, in such manner as may appear to such Court to be convenient for the due administration of justice.

Chief Court to superintend subordinate Courts, and to frame rules of practice for itself and such Courts.

44. The Chief Court shall have superintendence over all Courts which may be subject to its appellate jurisdiction, and shall have power to call for returns, to make and issue general rules for regulating the practice and proceedings of the Chief Court and of such subordinate Courts, to give and assign to the Ministerial Officers of the said Chief Court and subordinate Courts respectively such powers and duties as may seem fit, to frame and prescribe forms for every proceeding in the said Courts for which it shall think necessary that a form be provided, and also for keeping all books, entries and accounts to be kept by the Officers, and to settle Tables of Fees to be allowed to Pleaders, and from time to time to alter any such rule or form or table; and the rules so made, and the forms so framed, and the tables so settled, shall be published in the Official Gazette and after being so published shall be used and observed in the Chief Court: Provided that such general rules and forms and tables be not inconsistent with the provisions of this Act or any law in force, and shall before they are issued have received the sanction of the Lieutenant-Governor.

Provisions as to proceedings pending in Judicial Commissioner's Court.

45. The Chief Court shall have jurisdiction in all proceedings pending in the Court of the Judicial Commissioner of the Punjab at the time of the constitution of the Chief Court; and all previous proceedings of the Court of the said Commissioner shall be dealt with as if the same had been had in the Chief Court.

Procedure in case of difference of opinion between Judges when Court consists of only two.

46. If the Chief Court shall consist of two Judges only, and if in any case heard by such Judges sitting together there shall be a difference of opinion between them, the following course shall be pursued, that is to say:—

(1*st*).—If

(*1st.*)—If the case be heard in appeal and the difference of opinion shall be on any question of fact in the finding of the Lower Court, the finding shall be upheld.

1st.—On appeal on a question of fact.

(*2nd.*)—If the difference of opinion shall be on a point of law or of usage having the force of law, the ruling of the Lower Court shall in such case also be upheld, unless one of the Judges shall be of opinion that the point is one which ought to be referred to the High Court of Judicature at Calcutta, in which case the Judges shall state the point as to which they differ, and forward such statement, with their own opinions respectively, to such High Court. The Chief Court may proceed in the case notwithstanding such reference, and may pass a decree contingent upon the opinion of the High Court on the point referred; but no execution shall be issued in any case in which a reference shall have been made until the receipt of the order of the High Court.

2nd.—On appeal on a question of law.

(*3rd.*)—If the case be heard by the Judges in the exercise of the original jurisdiction of the Chief Court, and the difference of opinion shall be on a point of law or usage having the force of law, the Judges shall state the point on which they differ, and proceed as last hereinbefore provided. The same rule shall be observed when a difference of opinion may arise between two Judges of the Court upon a point of law reserved under the thirty-fifth Section.

3rd.—In exercise of original jurisdiction on a question of law.

(*4th.*) If the case be heard by the Judges in the exercise of the original jurisdiction of the Chief Court, and the difference of opinion be on a question of fact, the opinion of the Senior Judge shall prevail, and he shall pronounce his decision as the decision of the Court.

4th.—In exercise of original jurisdiction on a question of fact.

47. Cases referred under this Act for the opinion of the High Court of Judicature at Calcutta shall be heard by not less than three Judges of that Court, and shall be determined according to the opinion of the majority of such Judges.

Hearing and decision of referred cases.

48. The parties to such cases may appear, plead and act in the said High Court in person, or by an Advocate or Vakeel of such High Court; and the High Court, when it

Parties may appear in person, or by Advocate or Vakeel.

Transmission of judgment of High Court and proceeding thereupon.

Costs of reference to High Court.

it has heard and considered the case, shall transmit a copy of its opinion under the seal of the Court and the signature of the proper Officer of the Court, to the Judges of the Chief Court. Costs, if any, consequent on the reference of a case for the opinion of the High Court under the forty-sixth Section, shall be costs in the suit.

Registers, books, accounts and statements to be kept and furnished by Chief Court.

Copies of records to be furnished.

49. The Chief Court shall keep such registers, books and accounts, and submit to the Lieutenant-Governor such statements of the work done in the Court as may be required by him. The Chief Court shall also comply with such requisitions as may be made by the Governor-General of India in Council or by the Lieutenant-Governor for certified copies of or extracts from the records of the Court.

Chief Court's functions exerciseable by single Judge.

50. Save as is in this Act otherwise expressly declared, any function which is hereby directed to be performed by the Chief Court may be performed by any Judge or Judges thereof appointed in that behalf by any rule made under the forty-fourth Section.

Sections 10, 11 and 12 not to be affected on extension to Punjab of Act XX of 1865.

51. Whenever the Lieutenant-Governor of the Punjab shall, under the authority vested in him by Section forty-seven of the Pleaders, Mookhtars and Revenue Agents' Act, 1865, extend the provisions of the said Act to the Territories under his Government, nothing in the said Act shall affect the provisions of Sections ten, eleven and twelve of this Act.

Repeal of Act No. XXVII of 1865.

52. Act No. XXVII of 1865 (*to make temporary provision for the decision of Civil appeals in the Districts within the Lieutenant-Governorship of the Punjab*) is hereby repealed. Provided that all appeals which under the provisions of such Act shall be pending before the Financial Commissioner of the Punjab at the date of the passing of this Act may be heard and decided by him as if the present Act had not been passed.

53. This

Short title.

53. This Act may be cited as "The Punjab Chief Court Act, 1866."

Commencement of Act.

54. This Act shall come into operation on such day as the Governor-General of India in Council shall fix by a notification published in the Gazette of India.

Military Orphan Press.—No 90 L. C.—10 2-66—2,400

ACT No. V of 1866.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 23rd February 1866.)

An Act to provide a summary procedure on Bills of Exchange and to amend in certain respects the Commercial Law of British India.

Preamble.

Whereas it is expedient to provide a summary procedure for the recovery of money due on dishonoured Bills of Exchange, Hundís and Promissory Notes; and whereas inconvenience is felt by persons engaged in trade by reason of the laws of British India being in some particulars different from those of England in matters of common occurrence in the course of such trade; and whereas, with a view to remedy such inconvenience, it is expedient to amend the laws of British India as hereinafter is mentioned; It is enacted as follows:—

Interpretation Clause.

1. In this Act, unless there be something repugnant in the subject or context—

"British India."

"British India" shall mean the territories which are or may become vested in Her Majesty or Her successors by the Statute 21 & 22 Vic., cap. 106 (*An Act for the better Government of India*):

"High Court."

"High Court" shall mean the High Court of Judicature at Calcutta, Madras or Bombay, as the case may be:

"Local Government."

And in every part of British India in which this Act shall operate, "Local Government" shall mean the person authorized by law to administer executive government in such part.

From and after 1st May 1866, in all suits upon Bills of Exchange, &c., if plaintiff desires to proceed under this Act, the summons shall be in the form given in the Schedule.

2. From and after the first day of May 1866, all suits upon Bills of Exchange, Hundís or Promissory Notes commenced in any High Court within six calendar months after the same shall have become due and payable, may, in case the plaintiff shall desire to proceed under this Act, be commenced as hereinafter is mentioned, (that is to say) the plaint shall be in the form prescribed by the Code of Civil Procedure; but the summons shall be in the form contained in the Schedule to this Act; and in any

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any case in which the plaint and summons shall be in such forms respectively, it shall not be lawful for the defendant to appear to or defend the suit unless he shall obtain leave from a Judge as hereinafter mentioned so to appear and defend; and in default of his obtaining such leave or of appearance and defence in pursuance thereof, the plaintiff shall be entitled to a decree for any sum not exceeding the sum mentioned in the summons together with interest at the rate specified (if any) to the date of the decree, and a sum for costs to be fixed by a rule of the High Court, unless the plaintiff claim more than such fixed sum, in which case the costs shall be ascertained in the ordinary way, and such decree may be enforced forthwith.

Defendant showing a defence upon the merits to have leave to appear.

3. The High Court shall, upon application within the period of seven days from the service of such summons, give leave to appear and to defend the suit, upon the defendant paying into Court the sum mentioned in the summons or upon affidavits satisfactory to the Court, which disclose a defence, or such facts as would make it incumbent on the holder to prove consideration, or such other facts as the Court may deem sufficient to support the application, and on such terms as to security, framing and recording issues, or otherwise, as to the Court may seem fit.

Court may, under special circumstances, set aside decree.

4. After decree, the High Court may, under special circumstances, set aside the decree, and if necessary stay or set aside execution, and may give leave to appear to the summons and to defend the suit, if it shall seem reasonable to the Court so to do and on such terms as to the Court may seem just.

Court may order Bill to be deposited with Officer of Court in certain cases.

5. In any proceedings under this Act, it shall be competent to the High Court to order the Bill or Note sought to be proceeded upon to be forthwith deposited with an Officer of the Court, and further to order that all proceedings shall be stayed until the plaintiff shall have given security for the costs thereof.

Remedy for recovery of cost of noting non-acceptance of dishonoured Bill.

6. The holder of every dishonoured Bill of Exchange or Promissory Note shall have the same remedies for the recovery of the expenses incurred in noting the same for non-acceptance or non-payment, or otherwise, by reason of such dishonour, as he has under this Act for the recovery of the amount of such Bill or Note.

7. The

Civil Procedure Code and rules made thereunder to apply to proceedings under this Act.

7. The provisions of the Code of Civil Procedure, and all rules made under or by virtue of the said Code shall, so far as the same are or may be made applicable, extend and apply to all proceedings to be had or taken under this Act.

Local Government may extend Act.

8. It shall be lawful for the Local Government to direct that all or any part of the provisions in Sections 2 to 7, both inclusive, of this Act shall, *mutatis mutandis*, apply to all or any Courts or Court in the territories under such Government, other than a High Court, and within one month after such order shall have been made and published in the Official Gazette, such provisions shall extend and apply in manner directed by such order, and any such order may be in like manner from time to time altered and annulled. In and by any such order the Local Government may direct by whom any powers or duties incident to the provisions applied under this Act, shall and may be exercised with respect to matters in such other Courts or Court, and may make any orders or regulations which may be deemed requisite for carrying into operation in such Courts or Court the provisions so applied.

Consideration for guarantee need not appear by writing.

9. No special promise to be made by any person after the passing of this Act to answer for the debt, default or miscarriage of another person, being in writing, and signed by the party to be charged therewith or some other person by him thereunto lawfully authorized, shall be deemed invalid to support a suit to charge the person by whom such promise shall have been made, by reason only that the consideration for such promise does not appear in writing, or by necessary inference from a written document.

Guarantee to or for a Firm to cease upon a change in the Firm, except in special cases.

10. No promise to answer for the debt, default or miscarriage of another made to a Firm consisting of two or more persons, or to a single person trading under the name of a Firm, and no promise to answer for the debt, default or miscarriage of a Firm, consisting of two or more persons, or of a single person trading under the name of a Firm, shall be binding on the person making such promise in respect of any thing done or omitted to be done after a change shall have taken place in any one or more of the persons constituting the Firm, or in the person trading under the name of a Firm, unless the intention of the parties, that

that such promise shall continue to be binding notwithstanding such change, shall appear either by express stipulation or by necessary implication from the nature of the Firm or otherwise.

Acceptance of a Bill, Inland or Foreign, to be in writing on it, and signed.

11. No acceptance of any Bill of Exchange, whether Inland or Foreign, made after the first day of May 1866, shall be sufficient to bind or charge any person, unless the same be in writing on such Bill, or, if there be more than one part of such Bill, on one of the said parts, and signed by the acceptor or some person duly authorized by him.

What are to be deemed "Inland Bills."

12. Every Bill of Exchange or Promissory Note drawn or made in any part of British India, and made payable in or drawn upon any person resident in any part of British India, shall be deemed to be an Inland Bill; but nothing herein contained shall alter or affect the stamp duty, if any, which, but for this enactment, would be payable in respect of any such Bill or Note.

Protest by Notary Public to be *primâ facie* evidence of dishonour.

13. Protest of a Bill of Exchange, whether Inland or Foreign, when purporting to be made by a Notary Public, shall be *primâ facie* evidence that the Bill has been dishonoured.

Suits on lost negotiable instruments.

14. In case of any suit founded upon a Bill of Exchange or other negotiable instrument, if it shall be proved to the satisfaction of the Court that the instrument is lost, and if an indemnity be given by the plaintiff, to the satisfaction of the Court, against the claims of any other person upon such instrument, it shall be lawful for the Court to make such decree as it would have made if the plaintiff had produced the instrument in Court when the plaint was presented, and had at the same time delivered a copy of the instrument to be filed with the plaint.

Rights under marine and fire policies to vest in assignees.

15. Every assignee, by endorsement or otherwise, of a policy of marine insurance or of a policy of insurance against fire, in whom the property in the subject insured shall be absolutely vested at the date of the assignment, shall have transferred to and vested in him all rights of suit as if the contract contained in the policy had been made with himself.

SCHEDULE

ACT No. V OF 1866.

SCHEDULE.

No. OF SUIT.

In the High Court of at

Plaintiff

Defendant

To [*here enter the defendant's name, description and address*].

Whereas [*here enter the plaintiff's name, description and address*] has instituted a suit in this Court against you under Act No. V of 1866 *(to provide a summary procedure on Bills of Exchange and to amend in certain respects the Commercial Law of British India)* for Rs. principal and interest [*or* Rs. balance of principal and interest] due to him as the Payee [*or* Indorsee] of a Bill of Exchange [*or* Hundí *or* Promissory Note] of which a copy is hereto annexed, you are hereby summoned to obtain leave from the Court within seven days from the service hereof, inclusive of the day of such service, to appear and defend the suit, and within such time to cause an appearance to be entered for you. In default whereof the plaintiff will be entitled at any time after the expiration of such seven days to obtain a decree for any sum not exceeding the sum of Rs. [*here state the sum claimed*] and the sum of Rs. for costs.

Leave to appear may be obtained on an application to the Court supported by affidavit or declaration showing that there is a defence to the suit on the merits, or that it is reasonable that you should be allowed to appear in the suit.

[*Here copy the Bill of Exchange, Hundí or Promissory Note, and all endorsements upon it*]

Military Orphan Press.—No 100 L. C—24-2 66.—2,400.

ACT No. VI of 1866.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 2nd March 1866).

An Act to continue Act No. XXXI of 1860 (*relating to the manufacture, importation and sale of arms and ammunition, and for regulating the right to keep and use the same, and to give power of disarming in certain cases*) *and for other purposes.*

Preamble.

WHEREAS Act No. XXXI of 1860 as continued by Act No. VI of 1865 will expire on the first day of October 1866; and whereas it is expedient to continue the said Act No. XXXI of 1860 with such modifications as are hereinafter mentioned; and whereas it is desirable to render the license mentioned in the 26th and other Sections of the same Act grantable upon conditions, and to enable the local Governments to exempt classes of persons, Districts and parts of Districts from the operation of Sections 25 and 26 of the same Act; It is enacted as follows :—

Repeal of Act No. VI of 1865 and of part of Section 55 of Act No. XXXI of 1860.

Rest of Act No. XXXI of 1860 continued.

1. Act No. VI of 1865 and the second Clause of Section 55 of Act No. XXXI of 1860 are hereby repealed; but the rest of the Act last hereinbefore mentioned shall, subject to the modifications hereinafter mentioned, continue in force from the passing of this Act until the Governor-General of India in Council shall by an order published in the Gazette of India declare otherwise.

Licenses to bear arms may be granted on conditions.

2. The license mentioned in Sections 26, 28, 29 and 30 of the said Act No. XXXI of 1860 may be granted by the Magistrate or other person specially authorized to grant the same, subject to such condition or conditions, if any, as such Magistrate or other person shall think fit; and on breach of any such condition, or failure to comply therewith, such license shall thereupon be null and void.

3. For

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Amendment of Section 27 of Act No. XXXI of 1860.

3. For the last Clause of Section 27 of the same Act, the following words shall be substituted, (that is to say) "Such other persons, classes of persons, Districts or parts of Districts as the local Government may by notification in the Official Gazette from time to time exempt from such provisions."

Short Title.

4. This Act may be cited as "The Arms' Act Continuance Act, 1866."

Military Orphan Press.—No. 109 L. C.—8-3-66.—2.500.

ACT No. VII of 1866.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 2nd March 1866).

An Act to extend to the Court of Judicature of Prince of Wales' Island, Singapore and Malacca Act No. XXIII of 1840 (for executing within the local limits of the jurisdiction of Her Majesty's Courts legal process issued by Authorities in the Mofussil).

Preamble

WHEREAS it is expedient to extend to the Court of Judicature of Prince of Wales' Island, Singapore and Malacca, the provisions of Act No. XXIII of 1840 *(for executing within the local limits of the jurisdiction of Her Majesty's Courts legal process issued by Authorities in the Mofussil)*; It is enacted as follows:—

Extension of Act.

Proviso.

1. The said Act No. XXIII of 1840 shall be read as if the words "Supreme Courts of Calcutta, Madras, and Bombay" included the Court of Judicature of Prince of Wales' Island, Singapore and Malacca: Provided that no writ, warrant, or other process shall be endorsed under the said Act by such Court so as to compel the attendance beyond the limits of its jurisdiction of any person living within such limits, unless special grounds be proved to the satisfaction of the Judge of such Court to whom such endorsement shall be applied for in support of the application, which grounds shall be recorded in the endorsement of the writ, warrant or other process.

Service of process issued by one Court to commence a suit or action within the local jurisdiction of another Court.

2. Any summons or other process issued to commence a suit by any High Court, may be served within the local jurisdiction of the said Court of Judicature of Prince of Wales' Island, Singapore and Malacca, if endorsed for service by a Judge of such Court of Judicature as hereinafter provided, and any summons or other process issued to commence a suit or action by the same Court of Judicature may be served within the local jurisdiction of any High Court, if endorsed for service

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service by a Judge of such High Court as hereinafter provided. The summons or other process intended for service shall be accompanied by a certificate annexed thereto, signed by a Judge of the Court from which the same is issued, stating some special cause why such summons or other process should be served within the jurisdiction of the High Court or Court of Judicature, as the case may be, and application shall be made to a Judge of such Court, on production of such summons or other process, and of such certificate, prior to such service thereof. On such application being made, it shall be in the discretion of such Judge to require proof by affidavit or otherwise that it is proper to allow such service, and on hearing such proof such Judge shall either endorse the summons or other process for service, or shall endorse thereon the reason for not ordering the service thereof. If such summons or other process be not endorsed for service as aforesaid, it shall not be served under this Act. When endorsed for service it shall be served in the same manner as if it had originally issued out of the Court in which such endorsement is made.

Military Orphan Press—No 110 L. C—8-9-66—2,000

ACT No. VIII of 1866.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 2nd March 1866).

An Act further to amend the Schedule annexed to the Code of Criminal Procedure.

Preamble

Whereas it is expedient further to amend the Schedule annexed to the Code of Criminal Procedure; It is enacted as follows:—

Amendment of Schedule as regards Sections 172, 174, 271, 277, 278, 279, 285, 286, 289, 290, 325, 380, 448 and 451 of the Indian Penal Code

1. In lieu of the words in the parts of column 7 of the said Schedule respectively referring to Sections 172, 174, 271, 277, 278, 279, 285, 286, 289, 290, 325, 380, 448 and 451 of the Indian Penal Code, there shall be read the words "Any Magistrate."

Amendment of Schedule as regards Sections 392 and 393 of the Indian Penal Code.

2. In lieu of the words in the parts of the said column respectively referring to Sections 392 and 393 of the Indian Penal Code, there shall be read the words "Court of Session or Magistrate of the District."

Nothing in this Act to alter effect of the rest of the Schedule

3. Nothing herein contained shall be taken to alter the effect which any other part of the said Schedule had immediately before the passing of this Act.

This Act to be read with the Code of Criminal Procedure

4. This Act shall be read with and taken as part of the Code of Criminal Procedure.

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Military Orphan Press—No 111 L. C—8 3 66—6,000

ACT No. IX of 1866.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor-General on the 9th March* 1866).

An Act to extend to the Sudder Court of the North-Western Provinces certain provisions of "The Pleaders, Mookhtars and Revenue Agents' Act, 1865' *and of Act No. XXIX of* 1865.

Preamble.

Whereas it is expedient to extend to the Sudder Court of the North-Western Provinces certain provisions of "The Pleaders, Mookhtars and Revenue Agents' Act, 1865" and of Act No. XXIX of 1865; It is enacted as follows :—

Power to Sudder Court, N. W. P., to make rules as to Pleaders and Mookhtars of such Court.

1. Notwithstanding any thing contained in "The Pleaders, Mookhtars and Revenue Agents' Act, 1865," the said Sudder Court shall have power to make rules for the qualification, admission and enrolment of proper persons to be Pleaders and Mookhtars of such Court, for the fees to be paid for the examination, admission and enrolment of such persons, and, subject to the provisions contained in the same Act, for the suspension and dismissal of the Pleaders so admitted and enrolled. The said Court may also from time to time vary and add to such rules.

Certain provisions contained in Act No. XX of 1865 and in Act No. XXIX of 1865 to apply to Pleaders and Mookhtars practising in such Court.

2. The provisions contained in Sections 5 to 12 (both inclusive), 14, 15, 18, 37, 39 and 41 of "The Pleaders, Mookhtars and Revenue Agents' Act, 1865," and in Sections 1 and 2 of Act No. XXIX of 1865, shall, *mutatis mutandis*, apply to Pleaders and Mookhtars practising in the said Sudder Court.

This Act to be read with Act No. XX of 1865.

3. This Act shall be read with and taken as part of "The Pleaders, Mookhtars and Revenue Agents' Act, 1865."

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Military Orphan Press—No. 126 L. C.-13-3-66—2,200.

THE INDIAN COMPANIES' ACT, 1866.

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PART II.

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ACT No. X OF 1866.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor-General on the* 12*th March* 1866.)

An Act for the incorporation, regulation, and winding-up of Trading Companies and other Associations.

Preamble.

Whereas it is expedient that the laws relating to the incorporation, regulation and winding-up of Trading Companies and other Associations should be consolidated and amended; It is enacted as follows:—

Preliminary.

Short Title.

1. This Act may be cited for all purposes as "The Indian Companies' Act, 1866."

Commencement of Act.

2. This Act shall come into operation on the first day of May 1866, and the time at which it so comes into operation is hereinafter referred to as the commencement of this Act.

Interpretation clause.

3. In this Act, unless there be something repugnant in the subject or context:—

"British India."

"British India" means the Territories which are or may become vested in Her Majesty or Her successors by the Statute 21 & 22 Vic., Cap. 106, entitled "An Act for the better Government of India:"

"Year." "Month."

"Year" and "month" respectively denote a year and month reckoned according to the British calendar:

"Insurance Company."

An "Insurance Company" means a Company that carries on the business of insurance either solely or in common with any other business or businesses;

"Court."

"Court" means the principal Civil Court of original jurisdiction in a District, and includes the High Court in the exercise of its ordinary original Civil jurisdiction;

"District

PRICE ONE RUPEE AND TEN ANNAS.

"District Court" means the principal Civil Court of original jurisdiction in a District, but does not include the High Court in the exercise of its ordinary original Civil jurisdiction;

"District Court."

And, in any part of British India in which this Act operates, "Local Government" means the person authorized by law to administer Executive Government in such part and includes a Chief Commissioner; and "High Court" denotes the highest Civil Court of appeal therein.

"Local Government." "High Court"

4. No Company, Association or Partnership consisting of more than ten persons shall be formed, after the commencement of this Act, for the purpose of carrying on the business of banking, unless it is registered as a Company under this Act, or is formed in pursuance of an Act of Parliament or some other Act of the Governor-General of India in Council, or by Royal Charter or Letters Patent; and no Company, Association or Partnership consisting of more than twenty persons shall be formed, after the commencement of this Act, for the purpose of carrying on any other business that has for its object the acquisition of gain by the Company, Association or Partnership, or by the individual members thereof, unless it is registered as a Company under this Act, or is formed in pursuance of some other Act or of Letters Patent.

Prohibition of partnerships exceeding certain number.

5. This Act is divided into nine Parts relating to the following subject-matters:—

Division of Act.

The first Part—to the constitution and incorporation of Companies and Associations under this Act:

The second Part—to the distribution of the capital and liability of members of Companies and Associations under this Act:

The third Part—to the management and administration of Companies and Associations under this Act:

The fourth Part—to the winding-up of Companies and Associations under this Act:

The fifth Part—to the Registration Office:

The sixth Part—to the application of this Act to Companies registered under Act No. XIX of 1857 *(for the incorporation and regulation of Joint Stock Companies*

Companies and other Associations either with or without limited liability of the members thereof), and Act No. VII of 1860 *(to enable Joint Stock Banking Companies to be formed on the principle of limited liability)*, or either of them:

The seventh Part—to Companies authorized to register under this Act:

The eighth Part—to the application of this Act to unregistered Companies:

The ninth Part—to repeal of Acts.

PART I.

CONSTITUTION AND INCORPORATION OF COMPANIES AND ASSOCIATIONS UNDER THIS ACT.

Memorandum of Association.

Mode of forming Company

6. Any seven or more persons associated for any lawful purpose may, by subscribing their names to a memorandum of association, and otherwise complying with the requisitions of this Act in respect of registration, form an incorporated Company, with or without limited liability.

Mode of limiting liability of members

7. The liability of the members of a Company formed under this Act may, according to the memorandum of association, be limited either to the amount, if any, unpaid on the shares respectively held by them, or to such amount as the members may respectively undertake by the memorandum of association to contribute to the assets of the Company in the event of its being wound up.

Memorandum of association of a Company limited by shares

8. Where a Company is formed on the principle of having the liability of its members limited to the amount unpaid on their shares, hereinafter referred to as a Company limited by shares, the memorandum of association shall contain the following things; (that is to say)—

(1.) The name of the proposed Company, with the addition of the word "limited" as the last word in such name:

(2.) The part of British India in which the registered Office of the Company is proposed to be situate:

(3.) The objects for which the proposed Company is to be established:

(4). A

(4.) A declaration that the liability of the members is limited:

(5.) The amount of capital with which the Company proposes to be registered divided into shares of a certain fixed amount,

Subject to the following regulations:—

(1.) That no subscriber shall take less than one share.

(2.) That each subscriber of the memorandum of association shall write opposite to his name the number of shares he takes.

Memorandum of association of a Company limited by guarantee

9. Where a Company is formed on the principle of having the liability of its members limited to such amount as the members respectively undertake to contribute to the assets of the Company in the event of the same being wound up, hereinafter referred to as a Company limited by guarantee, the memorandum of association shall contain the following things; (that is to say)—

(1.) The name of the proposed Company, with the addition of the word "limited" as the last word in such name:

(2.) The part of British India in which the registered Office of the Company is proposed to be situate:

(3.) The objects for which the proposed Company is to be established:

(4.) A declaration that each member undertakes to contribute to the assets of the Company, in the event of the same being wound up during the time that he is a member or within one year afterwards, for payment of the debts and liabilities of the Company contracted before the time at which he ceases to be a member, and of the costs, charges and expenses of winding up the Company, and for the adjustment of the rights of the contributories amongst themselves, such amount as may be required not exceeding a specified amount.

Memorandum of association of an unlimited Company.

10. Where a Company is formed on the principle of having no limit placed on the liability of its members, hereinafter referred to as an Unlimited Company, the memorandum of association shall contain the following things; (that is to say)—

(1.) The name of the proposed Company:

(2.) The

(2.) The part of British India in which the registered Office of the Company is proposed to be situate:

(3.) The objects for which the proposed Company is to be established.

Stamp, signature, and effect of memorandum of association.

11. The memorandum of association shall bear the same stamp as if it were a deed, and shall be signed by each subscriber in the presence of, and be attested by, one witness at the least. It shall, when registered, bind the Company and the members thereof to the same extent as if each member had subscribed his name thereto, and there were in the memorandum contained on the part of himself, his heirs, executors and administrators, a covenant to observe all the conditions of such memorandum, subject to the provisions of this Act.

Power of certain Companies to alter memorandum of association.

12. Any Company limited by shares may so far modify the conditions contained in its memorandum of association, if authorized to do so by its regulations as originally framed, or as altered by Special Resolution in manner hereinafter mentioned, as to increase its capital, by the issue of new shares of such amount as it thinks expedient, or to consolidate and divide its capital into shares of larger amount than its existing shares, or to convert its paid-up shares into stock, but, save as aforesaid, and save as hereinafter provided in the case of a change of name, no alteration shall be made by any Company in the conditions contained in its memorandum of association.

Power of Companies to change name.

13. Any Company under this Act, with the sanction of a Special Resolution of the Company passed in manner hereinafter mentioned, and with the approval of the Local Government testified in writing under the hand of one of the Secretaries to such Government, may change its name, and upon such change being made, the Registrar shall enter the new name on the Register in the place of the former name, and shall issue a certificate of incorporation altered to meet the circumstances of the case; but no such alteration of name shall affect any rights or obligations of the Company, or render defective any legal proceedings instituted or to be instituted by or against the Company; and any legal proceedings may be continued or commenced against the Company by its new name that might have been continued or commenced against the Company by its former name.

Articles

Articles of Association.

Regulations to be prescribed by Articles of Association.

14. The memorandum of association may, in the case of a Company limited by shares, and shall, in the case of a Company limited by guarantee or unlimited, be accompanied, when registered, by Articles of Association signed by the subscribers to the memorandum of association, and prescribing such regulations for the Company as the subscribers to the memorandum of association deem expedient. The Articles shall be expressed in separate paragraphs, numbered arithmetically: They may adopt all or any of the provisions contained in the Table marked A in the first Schedule hereto: They shall, in the case of a Company, whether limited by guarantee or unlimited, that has a capital divided into shares, state the amount of capital with which the Company proposes to be registered; and in the case of a Company, whether limited by guarantee or unlimited, that has not a capital divided into shares, state the number of members with which the Company proposes to be registered, for the purpose of enabling the Registrar to determine the fees payable on registration. In a Company limited by guarantee or unlimited, and having a capital divided into shares, each subscriber shall take one share at the least, and shall write opposite to his name in the memorandum of association the number of shares he takes.

Application of Table A.

15. In the case of a Company limited by shares, if the memorandum of association is not accompanied by Articles of Association, or, in so far as the Articles do not exclude or modify the regulations contained in the Table marked A in the first Schedule hereto, the last mentioned regulations shall, so far as the same are applicable, be deemed to be the regulations of the Company in the same manner and to the same extent as if they had been inserted in Articles of Association and the Articles had been duly registered.

Stamp, signature, and effect of Articles of Association.

16. The Articles of Association shall be printed, they shall bear the same stamp as if they were contained in a deed, and shall be signed by each subscriber in the presence of, and be attested by, one witness at the least. When registered, they shall bind the Company and the members thereof to the same extent as if each member had subscribed his name thereto, and there were in such Articles contained a covenant on the part of himself, his heirs, executors and administrators, to conform

conform to all the regulations contained in such Articles, subject to the provisions of this Act. All monies payable by any member to the Company, in pursuance of the conditions and regulations of the Company, or any of such conditions or regulations, shall be deemed to be a debt due from such member to the Company.

General Provisions.

Registration of memorandum of association and Articles of Association with fees as in Table B.

17. The memorandum of association and the Articles of Association, if any, shall be delivered to the Registrar of Joint Stock Companies hereinafter mentioned, who shall retain and register the same. There shall be paid to the Registrar by a Company having a capital divided into shares, in respect of the several matters mentioned in the Table marked B in the first Schedule hereto, the several fees therein specified, or such smaller fees as the Governor-General of India in Council may from time to time direct, and by a Company not having a capital divided into shares, in respect of the several matters mentioned in the Table marked C in the first Schedule hereto, the several fees therein specified, or such smaller fees as the Governor-General of India in Council may from time to time direct. All fees paid to the said Registrar in pursuance of this Act shall be accounted for to Government.

Effect of registration.

18. Upon the registration of the memorandum of association and of the Articles of Association in cases where Articles of Association are required by this Act, or by the desire of the parties to be registered, the Registrar shall certify under his hand that the Company is incorporated, and in the case of a Limited Company that the Company is limited; the subscribers of the memorandum of association, together with such other persons as may from time to time become members of the Company, shall thereupon be a Body Corporate by the name contained in the memorandum of association, capable forthwith of exercising all the functions of an incorporated Company, and having perpetual succession and a common seal, but with such liability on the part of the members to contribute to the assets of the Company, in the event of the same being wound up, as is hereinafter mentioned. A certificate of the incorporation of any Company given by the Registrar shall be conclusive evidence that all the requisitions of this Act in respect of registration have been complied with.

Copies of memorandum and Articles to be given to members.

19. A copy of the memorandum of association having annexed thereto the Articles of Association, if any, shall be forwarded to every member, at his request, on payment of the sum of one rupee, or such less sum as may be prescribed by the Company

Company for each copy; and if any Company makes default in forwarding a copy of the memorandum of association and Articles of Association, if any, to a member in pursuance of this Section, the Company so making default shall for each offence incur a penalty not exceeding twenty rupees.

Prohibition against identity of names in Companies.

20. No Company shall be registered under a name identical with that by which a subsisting Company is already registered, or so nearly resembling the same as to be calculated to deceive, except in a case where such subsisting Company is in the course of being dissolved and testifies its consent in such manner as the Registrar requires. If any Company, through inadvertence or otherwise, is, without such consent as aforesaid, registered by a name identical with that by which a subsisting Company is registered, or so nearly resembling the same as to be calculated to deceive, such first mentioned Company may, with the sanction of the Registrar, change its name, and upon such change being made, the Registrar shall enter the new name on the Register in the place of the former name, and shall issue a certificate of incorporation altered to meet the circumstances of the case; but no such alteration of name shall affect any rights or obligations of the Company, or render defective any legal proceedings instituted or to be instituted by or against the Company, and any legal proceedings may be continued or commenced against the Company by its new name that might have been continued or commenced against the Company by its former name.

PART II.

DISTRIBUTION OF CAPITAL AND LIABILITY OF MEMBERS OF COMPANIES AND ASSOCIATIONS UNDER THIS ACT.

Distribution of Capital.

Nature of interest in Company.

21. The shares or other interest of any member in a Company under this Act shall be moveable property capable of being transferred in manner provided by the regulations of the Company, and shall not be of the nature of real estate or immoveable property; and each share shall, in the case of a Company having a capital divided into shares, be distinguished by its appropriate number.

Definition of "Member."

22. The subscribers of the memorandum of association of any Company under this Act shall be deemed to have agreed to become members of the Company whose memorandum they have subscribed, and upon the registration of the Company shall be entered as members on the Register of Members hereinafter mentioned; and every other

other person who has agreed to become a member of a Company under this Act, and whose name is entered on the Register of Members, shall be deemed to be a member of the Company.

Transfer by personal representative.

23. Any transfer of the share or other interest of a deceased member of a Company under this Act, made by his personal representative, shall, notwithstanding such personal representative may not himself be a member, be of the same validity as if he had been a member at the time of the execution of the instrument of transfer.

Register of Members.

24. Every Company under this Act shall cause to be kept in one or more books a Register of its members, and there shall be entered therein the following particulars :—

(1.) The names and addresses, and the occupations, if any, of the members of the Company, with the addition, in the case of a Company having a capital divided into shares, of a statement of the shares held by each member, distinguishing each share by its number ; and of the amount paid or agreed to be considered as paid on the shares of each member :

(2.) The date at which the name of any person was entered in the Register as a member :

(3.) The date at which any person ceased to be a member.

Any Company acting in contravention of this Section shall incur a penalty not exceeding fifty rupees for every day during which its default in complying with the provisions of this Section continues, and every Director or Manager of the Company who shall knowingly and wilfully authorize or permit such contravention shall incur the like penalty.

Annual list of members

25. Every Company under this Act and having a capital divided into shares shall make, once at least in every year, a list of all persons who, on the fourteenth day succeeding the day on which the Ordinary General Meeting, or if there is more than one Ordinary Meeting in each year the first of such Ordinary General Meetings is held, are members of the Company. Such list shall state the names, addresses, and occupations of all the members therein mentioned, and the number of shares held by each of them, and shall contain a summary specifying the following particulars :—

(1.) The

(1.) The amount of the capital of the Company and the number of shares into which it is divided:

(2.) The number of shares taken from the commencement of the Company up to the date of the summary:

(3.) The amount of calls made on each share

(4.) The total amount of calls received:

(5.) The total amount of calls unpaid:

(6.) The total amount of shares forfeited:

(7.) The names, addresses, and occupations of the persons who have ceased to be members since the last list was made, and the number of shares held by each of them.

The above list and summary shall be contained in a separate part of the Register, and shall be completed within seven days after such fourteenth day as is mentioned in this Section, and a copy shall forthwith be forwarded to the Registrar of Joint Stock Companies.

Penalty on Company, &c., not keeping a proper Register.

26. If any Company under this Act and having a capital divided into shares makes default in complying with the provisions of this Act with respect to forwarding such list of members or summary as is hereinbefore mentioned to the Registrar, such Company shall incur a penalty not exceeding fifty rupees for every day during which such default continues, and every Director and Manager of the Company who shall knowingly and wilfully authorize or permit such default shall incur the like penalty.

Company to give notice of consolidation or of conversion of capital into stock.

27. Every Company under this Act having a capital divided into shares that has consolidated and divided its capital into shares of larger amount than its existing shares, or converted any portion of its capital into stock, shall within fifteen days of such consolidation, division or conversion, give notice to the Registrar of Joint Stock Companies of the same, specifying the shares so consolidated, divided or converted.

Effect of conversion of shares into stock.

28. Where any Company under this Act and having a capital divided into shares has converted any portion of its capital into stock, and given notice of such conversion to the Registrar,

trar, all the provisions of this Act which are applicable to shares only shall cease as to so much of the capital as is converted into stock; and the Register of Members hereby required to be kept by the Company, and the list of members to be forwarded to the Registrar shall show the amount of stock held by each member in the list instead of the amount of shares and the particulars relating to shares hereinbefore required.

Entry of trusts on Register.

29. No notice of any trust, express, implied or constructive, shall be entered on the Register or be receivable by the Registrar in the case of Companies under this Act and registered in British India.

Certificate of shares or stock.

30. A certificate under the common seal of the Company, specifying any share or shares or stock held by any member of a Company, shall be *primâ facie* evidence of the title of the member to the share or shares or stock therein specified.

Inspection of Register.

31. The Register of Members, commencing from the date of the registration of the Company, shall be kept at the registered Office of the Company hereinafter mentioned. Except when closed as hereinafter mentioned, it shall, during business hours, but subject to such reasonable restrictions as the Company in General Meeting may impose, so that not less than two hours in each day be appointed for inspection, be open to the inspection of any member gratis, and to the inspection of any other person on the payment of one rupee or such less sum as the Company may prescribe for each inspection. Every such member or other person may require a copy of such Register, or of any part thereof, or of such list or summary of members as is hereinbefore mentioned, on payment of two annas for every hundred words required to be copied. If such inspection or copy is refused, the Company shall incur for each refusal a penalty not exceeding fifty rupees, and a further penalty not exceeding twenty rupees for every day during which such refusal continues. Every Director and Manager of the Company who shall knowingly authorize or permit such refusal shall incur the like penalty. In addition to the above penalty, any Judge of a High Court may by order compel an immediate inspection of the Register.

Power to close Register.

32. Any Company under this Act may, upon giving notice by advertisement in some newspaper circulating in the District in which the registered Office of the Company is situated, close the Register

Register of Members for any time or times not exceeding in the whole thirty days in each year.

Notice of increase of capital and of members to be given to Registrar.

33. Where a Company has a capital divided into shares, whether such shares may or may not have been converted into stock, notice of any increase in such capital beyond the registered capital, and, where a Company has not a capital divided into shares, notice of any increase in the number of members beyond the registered number, shall be given to the Registrar, in the case of an increase of capital within fifteen days from the date of the passing of the Resolution by which such increase has been authorized, and in the case of an increase of members within fifteen days from the time at which such increase of members has been resolved on or has taken place, and the Registrar shall forthwith record the amount of such increase of capital or members. If such notice is not given within the period aforesaid, the Company in default shall incur a penalty not exceeding one hundred rupees for every day during which such neglect to give notice continues, and every Director and Manager of the Company, who shall knowingly and wilfully authorize or permit such default, shall incur the like penalty.

Remedy for improper entry or omission of entry in Register.

34. If the name of any person is without sufficient cause entered in, or omitted from, the Register of Members of any Company under this Act, or if default is made, or unnecessary delay takes place, in entering on the Register the fact of any person having ceased to be a member of the Company, the person or member aggrieved, or any member of the Company, or the Company itself, may, by application to the principal Court of original Civil jurisdiction in the District or place in which the registered Office of the Company is situate, apply for an order of the Court that the Register may be rectified ; and the Court may either refuse such application, with or without costs to be paid by the applicant, or it may, if satisfied of the justice of the case, make an order for the rectification of the Register, and may direct the Company to pay all the costs of such application, and any damages the party aggrieved may have sustained. The Court may in any proceeding under this Section decide on any question relating to the title of any person who is a party to such proceeding to have his name entered in, or omitted from, the Register, whether such question arises between two or more members or alleged members, or between any members or alleged members and the Company, and generally the Court may, in any such proceeding, decide any question that it may be necessary or expedient to decide for the rectification of the Register; provided that the Court may direct

direct an issue to be tried in which any question of law may be raised, and an appeal in the manner directed by the Code of Civil Procedure shall lie.

Notice to Registrar of rectification of Register

35. Whenever any order has been made for rectifying the Register in the case of a Company hereby required to send a list of its members to the Registrar, the Court shall, by its order, direct that due notice of such rectification be given to the Registrar.

Register to be evidence.

36. The Register of Members shall be *primâ facie* evidence of any matters by this Act directed or authorized to be inserted therein.

Liability of Members.

Liability of present and past members of Company.

37. In the event of a Company formed under this Act being wound up, every present and past member of such Company shall be liable to contribute to the assets of the Company to an amount sufficient for payment of the debts and liabilities of the Company, and the costs, charges and expenses of the winding-up and for the payment of such sums as may be required for the adjustment of the rights of the contributories amongst themselves, with the qualifications following; (that is to say)—

(1.) No past member shall be liable to contribute to the assets of the Company if he has ceased to be a member for a period of one year or upwards prior to the commencement of the winding-up:

(2.) No past member shall be liable to contribute in respect of any debt or liability of the Company contracted after the time at which he ceased to be a member:

(3.) No past member shall be liable to contribute to the assets of the Company, unless it appears to the Court that the existing members are unable to satisfy the contributions required to be made by them in pursuance of this Act:

(4.) In the case of a Company limited by shares, no contribution shall be required from any member exceeding the amount, if any, unpaid on the shares in respect of which he is liable as a present or past member:

(5.) In

(5.) In the case of a Company limited by guarantee, no contribution shall be required from any member exceeding the amount of the undertaking entered into on his behalf by the memorandum of association :

(6.) Nothing in this Act contained shall invalidate any provision contained in any policy of insurance or other contract, whereby the liability of individual members upon any such policy or contract is restricted, or whereby the funds of the Company are alone made liable in respect of such policy or contract :

(7.) No sum due to any member of a Company in his character of a member by way of dividends, profits or otherwise, shall be deemed to be a debt of the Company payable to such member in a case of competition between himself and any other creditor not being a member of the Company; but any such sum may be taken into account for the purposes of the final adjustment of the rights of the contributories amongst themselves.

PART III.

Management and Administration of Companies and Associations under this Act.

Provisions for Protection of Creditors.

Registered Office of Company.

38. Every Company under this Act shall have a registered Office to which all communications and notices may be addressed. If any Company under this Act carries on business without having such an Office, it shall incur a penalty not exceeding fifty rupees for every day during which business is so carried on.

Notice of situation of registered Office.

39. Notice of the situation of such registered Office and of any change therein shall be given to the Registrar and recorded by him. Until such notice is given, the Company shall not be deemed to have complied with the provisions of this Act with respect to having a registered Office.

Publication of name by a Limited Company

40. Every Limited Company under this Act, whether limited by shares or by guarantee, shall paint or affix, and shall keep painted or affixed, its name on the outside of every Office or place in which the business of the Company is carried on, in a conspicuous position, in letters easily legible in the English language, and also, if the registered Office be situate in a District beyond the local limits of the ordinary original Civil

Civil jurisdiction of a High Court, in one of the vernacular languages used in such District, and shall have its name engraven in legible characters in such language or languages on its seal, and shall have its name mentioned in legible characters in such language or languages in all notices, advertisements and other official publications of such Company, and in all Bills of Exchange, Hundís, Promissory Notes, endorsements, cheques and orders for money or goods purporting to be signed by or on behalf of such Company, and in all bills of parcels, invoices, receipts and letters of credit of the Company.

Penalties on non-publication of name.

41. If any Limited Company under this Act does not paint or affix and keep painted or affixed its name, in manner directed by this Act, it shall be liable to a penalty not exceeding fifty rupees for not so painting or affixing its name and for every day during which such name is not so kept painted or affixed. Every Director and Manager of the Company who shall knowingly and wilfully authorize or permit such default shall be liable to the like penalty. If any Director, Manager or Officer of such Company, or any person on its behalf, uses or authorizes the use of any seal purporting to be a seal of the Company whereon its name is not so engraven as aforesaid, or issues or authorizes the issue of any notice, advertisement or other official publication of such Company, or signs or authorizes to be signed on behalf of such Company, any Bill of Exchange, Hundí, Promissory Note, endorsement, cheque, order for money or goods, or issues or authorizes to be issued any bill of parcels, invoice, receipt or letter of credit of the Company wherein its name is not mentioned in manner aforesaid, he shall be liable to a penalty of one thousand rupees, and shall further be personally liable to the holder of any such Bill of Exchange, Hundí, Promissory Note, cheque or order for money or goods, for the amount thereof, unless the same is duly paid by the Company.

Contracts how made.

42. Contracts on behalf of any Company registered under this Act may be made as follows; (that is to say)—

(1.) Any contract which if made between private persons would be by law required to be in writing, and if made according to English law to be under seal, may be made on behalf of the Company in writing under the common seal of the Company, and such contract may be in the same manner varied or discharged:

(2.) Any contract which if made between private persons would be by law required to be in writing signed by the parties to be charged therewith, may

may be made on behalf of the Company in writing signed by any person acting under the express or implied authority of the Company, and such contract may in the same manner be varied or discharged :

(3.) Any contract which if made between private persons would by law be valid, although made by parol only and not reduced into writing, may be made by parol on behalf of the Company by any person acting under the express or implied authority of the Company, and such contract may in the same way be varied or discharged. And all contracts made according to the provisions herein contained shall be effectual in law, and shall be binding upon the Company and their successors, and all other parties thereto, their heirs, executors or administrators, as the case may be.

Register of mortgages

43. Every Limited Company under this Act shall keep a Register of all mortgages and charges specifically affecting property of the Company, and shall enter in such Register in respect of each mortgage or charge a short description of the property mortgaged or charged, the amount of charge created, and the names of the mortgagees or persons entitled to such charge. If any property of the Company is mortgaged or charged without such entry as aforesaid being made, every Director, Manager or other Officer of the Company who knowingly and wilfully authorizes or permits the omission of such entry shall incur a penalty not exceeding five hundred rupees. The Register of mortgages required by this Section shall be open to inspection by any creditor or member of the Company at all reasonable times. If such inspection is refused, any Officer of the Company refusing the same, and every Director and Manager of the Company authorizing or knowingly and wilfully permitting such refusal, shall incur a penalty not exceeding fifty rupees, and a further penalty not exceeding twenty rupees for every day during which such refusal continues. In addition to the above penalty any Judge of the High Court may by order compel an immediate inspection of the Register.

Certain Companies to publish statement entered in Schedule.

44. Every Limited Banking Company and every Insurance Company, and Deposit, Provident or Benefit Society under this Act, shall, before it commences business, and also on the first Monday in February and the first Monday in August in every year during which it carries on business, make a statement in the form marked D in the first Schedule hereto, or as near thereto as circumstances will admit, and a copy

copy of such statement shall be put up in a conspicuous place in the registered Office of the Company and in every branch Office or place where the business of the Company is carried on. If default is made in compliance with the provisions of this Section, the Company shall be liable to a penalty not exceeding fifty rupees for every day during which such default continues, and every Director and Manager of the Company who shall knowingly and wilfully authorize or permit such default shall incur the like penalty.

Every member and every creditor of any Company mentioned in this Section shall be entitled to a copy of the abovementioned statement on payment of a sum not exceeding eight annas.

List of Directors to be sent to Registrar

45. Every Company under this Act and not having a capital divided into shares shall keep at its registered Office a Register containing the names and addresses and the occupations of its Directors or Managers, and shall send to the Registrar of Joint Stock Companies a copy of such Register, and shall from time to time notify to the Registrar any change that takes place in such Directors or Managers.

Penalty on Company not keeping Register of Directors

46. If any Company under this Act and not having a capital divided into shares, makes default in keeping a Register of its Directors or Managers, or in sending a copy of such Register to the Registrar in compliance with the foregoing rules, or in notifying to the Registrar any change that takes place in such Directors or Managers, such delinquent Company shall incur a penalty not exceeding one hundred rupees for every day during which such default continues, and every Director or Manager of the Company who shall knowingly and wilfully authorize or permit such default shall incur the like penalty.

Promissory Notes, Bills of Exchange and Hundís

47. A Promissory Note, Bill of Exchange or Hundí shall be deemed to have been made, accepted, or endorsed on behalf of any Company under this Act, if made, accepted, or endorsed in the name of the Company by any person acting under the authority of the Company, or if made, accepted, or endorsed by or on behalf or on account of the Company, by any person acting under the authority of the Company.

Prohibition against carrying on business with less than seven members

48. If any Company under this Act carries on business when the number of its members is less than seven, for a period of six months after the number has been so reduced, every person who is a member of such Company during the time that it so carries

carries on business after such period of six months, and is cognizant of the fact that it is so carrying on business with fewer than seven members, shall be severally liable for the payment of the whole debt of the Company contracted during such time, and may be sued for the same without the joinder in the suit of any other member.

Provisions for Protection of Members.

General Meeting of Company. Balance-Sheet.

49. A General Meeting of every Company under this Act shall be held once at the least in every year. A balance-sheet shall be made out in every year, and laid before the Company in General Meeting and filed with the Registrar of Joint Stock Companies, and such balance-sheet shall contain a summary of the property and liabilities of the Company arranged under the heads appearing in the form annexed to Table A in the first Schedule hereto, or as near thereto as circumstances admit. And once at the least in every year the accounts of the Company shall be examined and the correctness of the balance-sheet ascertained by one or more auditor or auditors. If default is made in compliance with any of the provisions of this Section, every Director and Manager of the Company who shall knowingly and wilfully authorize or permit such default shall be liable to a penalty of one thousand rupees.

Audit.

Power to alter regulations by Special Resolution.

50. Subject to the provisions of this Act, and to the conditions contained in the Memorandum of Association, any Company formed under this Act may, in General Meeting, from time to time, by passing a Special Resolution in manner hereinafter mentioned, alter all or any of the regulations of the Company contained in the Articles of Association, or in the Table marked A in the first Schedule where such Table is applicable to the Company, or make new regulations to the exclusion of or in addition to all or any of the regulations of the Company. Any regulations so made by Special Resolution shall be deemed to be regulations of the Company of the same validity as if they had been originally contained in the Articles of Association, and shall be subject in like manner to be altered or modified by any subsequent Special Resolution.

Definition of Special Resolution

51. A Resolution passed by a Company under this Act shall be deemed to be special, whenever a Resolution has been passed by a majority of not less than three-fourths of such members of the Company for the time being entitled, according to the regulations of the Company, to vote, as may be present in person or by proxy (in cases where by the regulations

regulations of the Company proxies are allowed), at any General Meeting of which notice specifying the intention to propose such Resolution has been duly given, and such Resolution has been confirmed by a majority of such members for the time being entitled, according to the regulations of the Company, to vote, as may be present in person or by proxy at a subsequent General Meeting of which notice has been duly given, and held at an interval of not less than fourteen days, nor more than one month, from the date of the meeting at which such Resolution was first passed. At any meeting mentioned in this Section, unless a poll is demanded by at least five members, a declaration of the Chairman that the Resolution has been carried shall be deemed conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against the same. Notice of any meeting shall, for the purposes of this Section, be deemed to be duly given, and the meeting to be duly held, whenever such notice is given and meeting held in manner prescribed by the regulations of the Company. In computing the majority under this Section, when a poll is demanded, reference shall be had to the number of votes to which each member is entitled by the regulations of the Company.

Provision where no regulations as to meetings.

52. In default of any regulations as to voting every member shall have one vote, and in default of any regulations as to summoning General Meetings, a meeting shall be held to be duly summoned of which seven days' notice in writing has been served on every member in manner in which notices are required to be served by the Table marked A in the first Schedule hereto. In default of any regulations as to the persons to summon meetings, five members shall be competent to summon the same, and in default of any regulations as to who is to be Chairman of such meeting, it shall be competent for any person elected by the members present to preside.

Registry of Special Resolutions.

53. A copy of every Special Resolution that is passed by any Company under this Act shall be printed and forwarded to the Registrar of Joint Stock Companies, and be recorded by him. If such copy is not so forwarded within fifteen days from the date of the confirmation of the Resolution, the Company shall incur a penalty not exceeding twenty rupees for every day after the expiration of such fifteen days during which such copy is omitted to be forwarded, and every Director and Manager of the Company who shall knowingly and wilfully authorize or permit such default shall incur the like penalty.

54. Where

54. Where Articles of Association have been registered, a copy of every Special Resolution for the time being in force shall be annexed to or embodied in every copy of the Articles of Association that may be issued after the passing of such Resolution. Where no Articles of Association have been registered, a copy of every Special Resolution shall be forwarded in print to any member requesting the same, on payment of one rupee or such less sum as the Company may direct. If any Company makes default in complying with the provisions of this Section, it shall incur a penalty not exceeding twenty rupees for each copy in respect of which such default is made; and every Director and Manager of the Company who shall knowingly and wilfully authorize or permit such default shall incur the like penalty.

Copies of Special Resolutions.

55. Any Company under this Act may, by instrument in writing under its common seal, empower any person, either generally or in respect of any specified matters, as its Attorney, to execute deeds on its behalf in any place not situate in British India; and every deed signed by such Attorney on behalf of the Company and under his seal, shall be binding on the Company and have the same effect as if it were under the common seal of the Company.

Execution of deeds abroad.

56. The Local Government may appoint one or more competent Inspectors to examine into the affairs of any Company under this Act, and to report thereon in such manner as the Local Government may direct upon the applications following; (that is to say)—

Examination of affairs of Company by Inspectors.

(1.) In the case of a Banking or any other Company that has a capital divided into shares, upon the application of members holding not less than one-fifth part of the whole shares of the Company for the time being issued:

(2.) In the case of any Company not having a capital divided into shares, upon the application of members being in number not less than one-fifth of the whole number of persons for the time being entered on the Register of the Company as members.

57. The

57. The application shall be supported by such evidence as the Local Government may require for the purpose of showing that the applicants have good reason for requiring such investigation to be made, and that they are not actuated by malicious motives in instituting the same. The Local Government may also require the applicants to give security for payment of the costs of the inquiry before appointing any Inspector or Inspectors.

Application for inspection to be supported by evidence.

58. It shall be the duty of all Officers and Agents of the Company to produce for the examination of the Inspectors all books and documents in their custody or power. Any Inspector may examine upon oath or affirmation the Officers and Agents of the Company in relation to its business, and may administer such oath or affirmation accordingly. If any such Officer or Agent refuses to produce any book or document hereby directed to be produced, or to answer any question relating to the affairs of the Company, he shall incur a penalty not exceeding one hundred rupees in respect of each offence.

Inspection of books.

59. Upon the conclusion of the examination, the Inspectors shall report their opinions to the Local Government. Such report shall be written or printed as the Local Government directs. A copy shall be forwarded by the Local Government to the registered Office of the Company, and a further copy shall, at the request of the members upon whose application the inspection was made, be delivered to them or to any one or more of them. All expenses of and incidental to any such examination as aforesaid shall be defrayed by the members upon whose application the Inspectors were appointed, unless the Local Government shall direct the same to be paid out of the assets of the Company, which the Local Government is hereby authorized to do.

Result of examination how dealt with.

60. Any Company under this Act may, by a Special Resolution, appoint Inspectors for the purpose of examining into the affairs of the Company. The Inspectors so appointed shall have the same powers and perform the same duties as Inspectors appointed by the Local Government, with this exception, that, instead of making their report to the Local Government, they shall make the same in such manner and to such persons as the Company in General Meeting directs. The Officers and Agents

Power of Company to appoint Inspectors.

of

of the Company shall incur the same penalties, in case of any refusal to produce any book or document hereby required to be produced to such Inspectors or to answer any question, as they would have incurred if such Inspectors had been appointed by the Local Government.

Report of Inspectors to be evidence.

61. A copy of the report of any Inspectors appointed under this Act, authenticated by the seal of the Company into whose affairs they have made inspection, shall be admissible in any legal proceeding as evidence of the opinion of the Inspectors in relation to any matter contained in such report.

Notices.

Service of notices on Company.

62. Any summons, notice, order or other document required to be served upon the Company, may be served by leaving the same, or sending it through the Post by a registered letter addressed to the Company, at their registered Office; and any notice to the Registrar of Joint Stock Companies may be served by sending it to him through the Post by a registered letter, or by delivering it to him, or by leaving it for him at his Office.

Rules as to notices by letter

63. Every document to be served by Post on the Company shall be posted in such time as to admit of its being delivered in the due course of delivery within the period (if any) prescribed for the service thereof; and in proving service of such document, it shall be sufficient to prove that such document was properly directed, and that it was put as a registered letter into the Post Office.

Authentication of notices by Company.

64. Any summons, notice, order or proceeding requiring authentication by the Company, may be signed by any Director, Secretary, or other authorized Officer of the Company, and need not be under the common seal of the Company, and the same may be in writing or in print, or partly in writing and partly in print.

Legal Proceedings.

Evidence of proceedings at meetings

65. Every Company under this Act shall cause Minutes of all Resolutions and proceedings of General Meetings of the Company, and of the Directors or Managers of the Company in cases where there are Directors or Managers, to be duly entered in books to be from time to time

time provided for the purpose; and any such Minute as aforesaid, if purporting to be signed by the Chairman of the meeting at which such Resolutions were passed or proceedings had, or by the Chairman of the next succeeding meeting, shall be received as evidence in all legal proceedings. Until the contrary is proved, every General Meeting of the Company or meeting of Directors or Managers in respect of the proceedings of which Minutes have been so made shall be deemed to have been duly held and convened, and all Resolutions passed thereat or proceedings had, to have been duly passed and had, and all appointments of Directors, Managers or Liquidators shall be deemed to be valid, and all acts done by such Directors, Managers or Liquidators shall be valid, notwithstanding any defect that may afterwards be discovered in their appointments or qualifications.

Provision as to costs in suits brought by certain Limited Companies.

66. Where a Limited Company is plaintiff in any suit, any Judge having jurisdiction in the matter may, if it appears by any credible testimony that there is reason to believe that if the defendant be successful in his defence, the assets of the Company will be insufficient to pay his costs, require sufficient security to be given for such costs, and may stay all proceedings until such security is given.

Plaint in suits against members.

67. In any suit brought by the Company against any member to recover any call or other monies due from such member in his character of member, it shall be sufficient to allege that the defendant is a member of the Company and is indebted to the Company in respect of a call made or other monies due whereby a suit has accrued to the Company.

Alteration of Forms.

Governor-General in Council may alter forms in Schedule.

68. The forms set forth in the second Schedule hereto, or forms as near thereto as circumstances admit, shall be used in all matters to which such forms refer. The Governor-General of India in Council may from time to time make such alterations in the Tables and forms contained in the first Schedule hereto, so that he does not increase the amount of fees payable to the Registrar in the said Schedule mentioned, and in the forms in the second Schedule, or make such additions to the last mentioned forms, as he deems requisite. Any such Table or form, when altered, shall be published in the Gazette of India, and upon such publication being made, such Table or form shall have the same force as if it were included in the Schedule to this Act, but no alteration made by the Governor-General of India

India in Council in the Table marked A contained in the first Schedule shall affect any Company registered prior to the date of such alteration, or repeal, as respects such Company, any portion of such Table.

Arbitrations.

Power for Companies to refer matters to arbitration.

69. Any Company under this Act may from time to time, by writing under its common seal, agree to refer and may refer to arbitration any matter whatsoever in dispute between itself and any other Company or person; and the Companies, parties to the arbitration, may delegate to the person or persons to whom the reference is made power to settle any terms or to determine any matter capable of being lawfully settled or determined by the Companies themselves, or by the Directors or other managing body of such Companies.

Power to alter or revoke agreements for reference.

70. The Companies jointly, but not otherwise, from time to time, by writing under their respective common seals, may add to, alter or revoke any agreement for reference in accordance with this Act theretofore entered into, between the Companies, or any of the terms, conditions or stipulations thereof.

Agreements to be carried into effect.

71. Every reference or agreement in accordance with this Act, except so far as it is from time to time revoked or modified in accordance with this Act, shall bind the Companies, and may and shall be carried into full effect.

Reference to Arbitrator.

72. Where the Companies agree, the reference shall be made to a single Arbitrator.

Reference to two or more Arbitrators.

73. Except where the Companies agree that the reference shall be made to a single Arbitrator, the reference shall be made as follows; to wit—

Where there are two Companies, the reference shall be made to two Arbitrators:

Where there are three or more Companies, the reference shall be made to so many Arbitrators as there are Companies.

Appointment of Arbitrators by Companies.

74. Where there are to be two or more Arbitrators, every Company shall by writing under their common seal appoint one of the Arbitrators, and shall give notice in writing thereof to the other Company or Companies.

75. Where

Appointment of Arbitrators by Local Government.

75. Where there are to be two or more Arbitrators, if any of the Companies fail to appoint an Arbitrator within fourteen days after being thereunto requested in writing by the other Company, or by the other Companies or any of them, then, on the application of the Companies or any of them, the Local Government, instead of the Company so failing to appoint an Arbitrator, may appoint an Arbitrator. The Arbitrator so appointed shall for the purposes of this Act be deemed to be appointed by the Company so failing.

Appointment of Arbitrators by Companies to supply vacancies.

76. When the reference is made to two or more Arbitrators, if before the matters referred to them are determined any Arbitrator dies, or becomes incapable or unfit, or for seven consecutive days fails to act as Arbitrator, the Company by which he was appointed shall by writing under their common seal appoint an Arbitrator in his place.

Appointment of Arbitrators by Local Government to supply vacancies.

77. Where the Company by which an Arbitrator ought to be appointed in the place of the Arbitrator so deceased, incapable, unfit or failing to act, fails to make the appointment within fourteen days after being thereunto requested in writing by the other Company, or by the other Companies or any of them, then, on the application of the Companies or any of them, the Local Government may appoint an Arbitrator. The Arbitrator so appointed shall for the purposes of this Act be deemed to be appointed by the Company so failing.

Appointment of Arbitrator not revocable.

78. When any appointment of an Arbitrator is made, the Company making the appointment shall have no power to revoke the same without the previous consent in writing of the other Company or every other Company in writing under their common seal.

Appointment of Umpire by Arbitrators.

79. Where two or more Arbitrators are appointed, they shall, before entering on the business of the reference, appoint by writing under their hands an impartial and qualified person to be their Umpire.

Appointment of Umpire by Local Government.

80. If the Arbitrators do not appoint an Umpire within seven days after the reference is made to the Arbitrators, then, on the application of the Companies or any of them, the Local Government may appoint an Umpire; and the Umpire so appointed

appointed shall for the purposes of this Act be deemed to be appointed by the Arbitrators.

Appointment of Umpire by Arbitrators to supply vacancy.

81. Where two or more Arbitrators are appointed, if before the matters referred to them are determined their Umpire dies, or becomes incapable or unfit, or for seven consecutive days fails to act as Umpire, the Arbitrators shall by writing under their hands appoint an impartial and qualified person to be their Umpire in his place.

Appointment of Umpire by Local Government to supply vacancy

82. If the Arbitrators fail to appoint an Umpire within seven days after notice in writing to them of the decease, incapacity, unfitness or failure to act of their Umpire, then, on the application of the Companies or any of them, the Local Government may appoint an Umpire. The Umpire so appointed shall for the purposes of this Act be deemed to be appointed by the Arbitrators so failing.

Succeeding Arbitrators and Umpires to have powers of predecessors.

83. Every Arbitrator appointed in the place of a preceding Arbitrator, and every Umpire appointed in the place of a preceding Umpire, shall respectively have the like powers and authorities as his respective predecessor.

Reference to Umpire.

84. Where there are two or more Arbitrators, if they do not within such a time as the Companies agree on, or, failing such agreement, within thirty days next after the reference is made to the Arbitrators, agree on their award thereon, then the matters referred to them, or such of those matters as are not then determined, shall stand referred to their Umpire.

Power for Arbitrators, &c., to call for books, &c., and administer oath.

85. The Arbitrator, and the Arbitrators, and the Umpire respectively may call for the production of any documents or evidence in the possession or power of the Companies respectively, or which they respectively can produce, and which the Arbitrator, or the Arbitrators, or the Umpire shall think necessary for determining the matters referred, and may examine the witnesses of the Companies respectively on oath or affirmation, and may administer the requisite oath or affirmation.

86. Except

Procedure in the arbitration.

86. Except where and as the Companies otherwise agree, the Arbitrator, and the Arbitrators, and the Umpire respectively may proceed in the business of the reference in such manner as he and they respectively shall think fit.

Arbitration may proceed in absence of Companies.

87. The Arbitrator, and the Arbitrators, and the Umpire respectively may proceed in the absence of all or any of the Companies in every case in which, after giving notice in that behalf to the Companies respectively, the Arbitrator, or the Arbitrators, or the Umpire shall think fit so to proceed.

Several awards may be made.

88. The Arbitrator, and the Arbitrators, and the Umpire respectively may, if he and they respectively think fit, make several awards, each on part of the matters referred, instead of one award on all the matters referred. Every such award on part of the matters shall for such time as shall be stated in the award, the same being such as shall have been specified in the agreement for arbitration, or in the event of no time having been so specified, for any time which the Arbitrator may be legally entitled to fix, be binding as to all the matters to which it extends, and as if the matters awarded on were all the matters referred, and that notwithstanding the other matters or any of them be not, then or thereafter awarded on.

Awards made in due time to bind all parties.

89. The award of the Arbitrator, or of the Arbitrators, or of the Umpire, if made in writing under his or their respective hand or hands and ready to be delivered to the Companies within such a time as the Companies agree on, or failing such agreement within thirty days next after the matters in difference are referred to (as the case may be) the Arbitrator, or the Arbitrators, or the Umpire, shall be binding and conclusive on all the Companies.

Power for Umpire to extend period for making his award.

90. Provided always that (except where and as the Companies otherwise agree) the Umpire, from time to time by writing under his hand, may extend the period within which his award is to be made. If it be made and ready to be delivered within the extended time, it shall be as valid and effectual as if made within the prescribed period.

Awards not to be set aside for informality.

91. No award made on any arbitration in accordance with this Act shall be set aside for any irregularity or informality.

92. Except

Awards to be obeyed.

92. Except only so far as the Companies bound by any award in accordance with this Act from time to time otherwise agree, all things by every award in accordance with this Act lawfully required to be done, omitted or suffered, shall be done, omitted or suffered accordingly.

Agreements, arbitrations and awards to have effect.

93. Full effect shall be given by the Courts according to their respective jurisdictions, and by the Companies respectively, and otherwise, to all agreements, references, arbitrations and awards in accordance with this Act; and the performance or observance thereof may, where the Courts think fit, be compelled by any process against the Companies respectively or their respective property that the Courts or any Judge thereof shall direct, and where requisite frame, for the purpose.

Costs of arbitration and award.

94. Except where and as the Companies otherwise agree, the costs of and attending the arbitration and the award shall be in the discretion of the Arbitrator, and the Arbitrators, and the Umpire respectively.

Payment of costs.

95. Except where and as the Companies otherwise agree, and if and so far as the award does not otherwise determine, the costs of and attending the arbitration and the award shall be borne and paid by the Companies in equal shares, and in other respects the Companies shall bear their own respective costs.

Submission to arbitration to be filed in Court.

96. On the application of any party interested, the submission to any such arbitration may be filed in the High Court, and an order of reference may be made thereon, with any directions the Court thinks fit; and the provisions of the Code of Civil Procedure shall, so far as the same are applicable, apply to every such order and to all proceedings thereunder.

PART IV.

WINDING-UP OF COMPANIES AND ASSOCIATIONS UNDER THIS ACT.

Preliminary.

Meaning of contributory.

97. The term "contributory" shall mean every person liable to contribute to the assets of a Company under this Act in the event of the same being wound up; it shall also, in all proceedings for determining the persons who are to be deemed contributories, and in all proceedings

proceedings prior to the final determination of such persons, include any person alleged to be a contributory.

Nature of liability of contributory

98. The liability of any person to contribute to the assets of a Company under this Act in the event of the same being wound up, shall be deemed to create a debt accruing due from such person at the time when his liability commenced, but payable at the time or respective times when calls are made as hereinafter mentioned for enforcing such liability; and it shall be lawful in the case of the insolvency of any contributory to prove against his estate the estimated value of his liability to future calls, as well as calls already made.

Contributories in case of death

99. If any contributory dies either before or after he has been placed on the list of contributories hereinafter mentioned, his personal representatives, heirs and devisees shall be liable in a due course of administration to contribute to the assets of the Company in discharge of the liability of such deceased contributory, and such personal representatives, heirs and devisees shall be deemed to be contributories accordingly.

Contributories in case of insolvency

100. If any contributory becomes insolvent, either before or after he has been placed on the list of contributories, his assignees shall be deemed to represent such insolvent for all the purposes of the winding-up, and shall be deemed to be contributories accordingly, and may be called upon to admit to prove against the estate of such insolvent, or otherwise to allow to be paid out of his assets in due course of law, any monies due from such insolvent in respect of his liability to contribute to the assets of the Company being wound up.

Winding-up by Court.

Circumstances under which Company may be wound up by Court.

101. A Company under this Act may be wound up by the Court as hereinafter defined, under the following circumstances; (that is to say)—

(1.) Whenever the Company has passed a Special Resolution requiring the Company to be wound up by the Court:

(2.) Whenever the Company does not commence its business within a year from its incorporation, or suspends its business for the space of a whole year:

(3.) Whenever

(3.) Whenever the members are reduced in number to less than seven.

(4.) Whenever the Company is unable to pay its debts:

(5.) Whenever the Court is of opinion that it is just and equitable that the Company should be wound up

Company when deemed unable to pay its debts

102. A Company under this Act shall be deemed to be unable to pay its debts—

(1.) Whenever a creditor, by assignment or otherwise, to whom the Company is indebted in a sum exceeding five hundred rupees then due, has served on the Company, by leaving the same at its registered Office, a demand under his hand requiring the Company to pay the sum so due, and the Company has for the space of three weeks succeeding the service of such demand neglected to pay such sum, or to secure or compound for the same to the reasonable satisfaction of the creditor:

(2.) Whenever execution or other process issued on a decree or order obtained in any Court in favour of any creditor, in any proceeding instituted by such creditor against the Company, is returned unsatisfied in whole or in part:

(3.) Whenever it is proved to the satisfaction of the Court that the Company is unable to pay its debts.

Definition of "the Court"

103. The expression "the Court," as used in this Part of this Act, shall mean the principal Court having original Civil jurisdiction in the place in which the registered Office of the Company is situate; unless in the regulations for the management of the Company it shall be stipulated that the Company if wound up shall be wound up by the High Court of Judicature at Fort William, Madras or Bombay (as the case may be), or by the Chief Court of the Punjab, in which case the word "Court" shall mean the said High Court or Chief Court (as the case may be) in the exercise of its original Civil jurisdiction.

Application for winding-up to be made by petition.

104 Any application to the Court for the winding-up of a Company under this Act shall be by petition, which may be presented by the Company, or by any one or more creditor or creditors, contributory or contributories of the Company, or by all or any of the above parties, together or separately, Every order which may be made

made on any such petition shall operate in favour of all the creditors and all the contributories of the Company, in the same manner as if it had been made upon the joint petition of a creditor and a contributory.

Commencement of winding-up by Court

105. A winding-up of a Company by the Court shall be deemed to commence at the time of the presentation of the petition for the winding-up.

Court may grant injunction

106. The Court may, at any time after the presentation of a petition for winding-up a Company under this Act and before making an order for winding-up the Company, upon the application of the Company or of any creditor or contributory of the Company, restrain further proceedings in any suit or proceeding against the Company, upon such terms as the Court thinks fit. The Court may also at any time after the presentation of such petition and before the first appointment of Liquidators, appoint provisionally an Official Liquidator of the estate and effects of the Company.

Course to be pursued by Court on hearing petition

107. Upon hearing the petition, the Court may dismiss the same with or without costs, may adjourn the hearing conditionally or unconditionally, and may make any interim order or any other order that it deems just.

Suits to be stayed after order for winding-up

108. When an order has been made for winding-up a Company under this Act, no suit or other proceeding shall be proceeded with or commenced against the Company, except with the leave of the Court and subject to such terms as the Court may impose.

Copy of order to be forwarded to Registrar.

109. When an order has been made for winding-up a Company under this Act, a copy of such order shall forthwith be forwarded by the Company to the Registrar of Joint Stock Companies; who shall make a Minute thereof in his books relating to the Company.

Power of Court to stay proceedings.

110. The Court may at any time after an order has been made for winding-up a Company, upon the application of any creditor or contributory of the Company, and upon proof to the satisfaction of the Court that all proceedings in relation to such winding-up ought to be stayed, make an order staying the same, either altogether or for a limited time, on such terms and subject to such conditions as it deems fit

111. When

111. When an order has been made for winding-up a Company limited by guarantee and having a capital divided into shares, any share-capital that may not have been called up shall be deemed to be assets of the Company and to be a debt due to the Company from each member to the extent of any sums that may be unpaid on any shares held by him, and payable at such time as may be appointed by the Court.

Effect of order on share-capital of Company limited by guarantee.

112. The Court may, as to all matters relating to the winding-up, have regard to the wishes of the creditors or contributories as proved to it by any sufficient evidence, and may, if it thinks it expedient, direct meetings of the creditors or contributories to be summoned, held and conducted in such manner as the Court directs, for the purpose of ascertaining their wishes, and may appoint a person to act as Chairman of any such meeting, and to report the result of such meeting to the Court. In the case of creditors, regard is to be had to the value of the debts due to each creditor, and in the case of contributories, to the number of votes conferred on each contributory by the regulations of the Company.

Court may have regard to wishes of creditors or contributories.

Official Liquidators.

113. For the purpose of conducting the proceedings in winding-up a Company and assisting the Court therein, there may be appointed a person or persons to be called an Official Liquidator or Official Liquidators. The Court may appoint such person or persons, either provisionally or otherwise, as it thinks fit, to the office of Official Liquidator or Official Liquidators. In all cases, if more persons than one are appointed to the office of Official Liquidator, the Court shall declare whether any act hereby required or authorized to be done by the Official Liquidator is to be done by all or any one or more of such persons. The Court may also determine whether any and what security is to be given by any Official Liquidator on his appointment. If no Official Liquidator is appointed, or during any vacancy in such appointment, all the property of the Company shall be deemed to be in the custody of the Court.

Appointment of Official Liquidator.

114. Any Official Liquidator may resign or be removed by the Court on due cause shown. Any vacancy in the office of an Official Liquidator appointed by the Court shall be filled by the Court. There shall be paid to the Official Liquidator such salary or remuneration, by way of percentage or otherwise, as

Resignations, removals, filling up vacancies, and compensation.

as the Court may direct; and if more Liquidators than one are appointed, such remuneration shall be distributed amongst them in such proportions as the Court directs.

Style and duties of Official Liquidator.

115. The Official Liquidator or Liquidators shall be described by the style of the Official Liquidator or Official Liquidators of the particular Company in respect of which he is or they are appointed, and not by his or their individual name or names. He or they shall take into his or their custody, or under his or their control, all the property, effects and things in action to which the Company is or appears to be entitled, and shall perform such duties in reference to the winding-up of the Company as may be imposed by the Court.

Powers of Official Liquidator

116. The Official Liquidator shall have power, with the sanction of the Court, to do the following things:—

(1.) To bring or defend any suit or prosecution, or other legal proceeding, Civil or Criminal, in the name and on behalf of the Company:

(2.) To carry on the business of the Company, so far as may be necessary for the beneficial winding-up of the same:

(3.) To sell the immoveable and moveable property, effects and things in action of the Company by public auction or private contract, with power to transfer the whole thereof to any person or Company, or to sell the same in parcels:

(4.) To do all acts, and to execute, in the name and on behalf of the Company, all deeds, receipts and other documents, and for that purpose to use, when necessary, the Company's seal:

(5.) To prove, rank, claim and draw a dividend, in the matter of the insolvency of any contributory, for any balance against the estate of such contributory, and to take and receive dividends in respect of such balance, in the matter of the insolvency, as a separate debt due from such insolvent, and rateably with the other separate creditors:

(6.) To draw, accept, make and endorse any Bill of Exchange, Hundi or Promissory Note in the name and on behalf of the Company, also to raise upon the security of the assets of the Company from time to time any requisite sum

sum or sums of money; and the drawing, accepting, making or endorsing of every such Bill of Exchange, Hundí or Promissory Note as aforesaid on behalf of the Company, shall have the same effect with respect to the liability of such Company as if such Bill or Note had been drawn, accepted, made or endorsed by or on behalf of such Company in the course of carrying on the business thereof:

(7.) To take out, if necessary, in his official name, letters of administration to any deceased contributory, and to do in his official name any other act that may be necessary for obtaining payment of any monies due from a contributory or from his estate, and which act cannot be conveniently done in the name of the Company; and in all cases where he takes out letters of administration, or otherwise uses his official name for obtaining payment of any monies due from a contributory, such monies shall, for the purpose of enabling him to take out such letters or recover such monies, be deemed to be due to the Official Liquidator himself: Provided that nothing herein contained shall be deemed to affect the rights, duties and privileges of the Administrators General and Officiating Administrators General of Bengal, Madras and Bombay respectively:

(8.) To do and execute all such other things as may be necessary for winding-up the affairs of the Company and distributing its assets.

Discretion of Official Liquidator.

117. The Court may provide by any order that the Official Liquidator may exercise any of the above powers without the sanction or intervention of the Court, and, where an Official Liquidator is provisionally appointed, may limit and restrict his powers by the order appointing him.

Appointment of Attorney or Vakeel to Official Liquidator.

118. The Official Liquidator may, with the sanction of the Court, appoint an Attorney or Vakeel to assist him in the performance of his duties.

Ordinary Powers of Court.

Collection and application of assets.

119. As soon as may be after making an order for winding-up the Company, the Court shall settle a list of contributories, with power to rectify the Register of Members in all cases where such rectification is required in pursuance of this Act, and shall cause the assets of the Company to be collected and applied in discharge of its liabilities.

120. In

120. In settling the list of contributories, the Court shall distinguish between persons who are contributories in their own right, and persons who are contributories as being representatives of or being liable to the debts of others.

Provision as to representative contributories.

121. The Court may, at any time after making an order for winding-up a Company, require any contributory for the time being settled on the list of contributories, trustee, receiver, banker or agent, or Officer of the Company to pay, deliver, convey, surrender or transfer forthwith, or within such time as the Court directs, to or into the hands of the Official Liquidator any sum or balance, books, papers, estate or effects which happen to be in his hands for the time being, and to which the Company is *primâ facie* entitled.

Power of Court to require delivery of property.

122. The Court may, at any time after making an order for winding-up the Company, make an order on any contributory for the time being settled on the list of contributories, directing payment to be made, in manner in the said order mentioned, of any monies due from him or from the estate of the person whom he represents to the Company, exclusive of any monies which he or the estate of the person whom he represents may be liable to contribute by virtue of any call made or to be made by the Court in pursuance of this Part of this Act. The Court may, in making such order, when the Company is not limited, allow to such contributory by way of set-off any monies due to him or the estate which he represents from the Company on any independent dealing or contract with the Company, but not any monies due to him as a member of the Company in respect of any dividend or profits. Provided that when all the creditors of any Company, whether Limited or Unlimited, are paid in full, any monies due on any account whatever to any contributory from the Company may be allowed to him by way of set-off against any subsequent call or calls.

Power of Court to order payment of debts by contributory.

123. The Court may, at any time after making an order for winding-up a Company, and either before or after it has ascertained the sufficiency of the assets of the Company, make calls on and order payment thereof by all or any of the contributories for the time being settled on the list of contributories, to the extent of their liability, for payment of all or any sums it deems necessary to satisfy the debts and liabilities of the Company, and the costs, charges and expenses of winding it up, and for the adjustment of the rights of the contributories amongst themselves. The Court

Power of Court to make calls.

Court may, in making a call, take into consideration the probability that some of the contributories upon whom the same is made may partly or wholly fail to pay their respective portions of the same.

Power of Court to order payment into Bank.

124. The Court may order any contributory, purchaser or other person from whom money is due to the Company, to pay the same into the Bank of Bengal, the Bank of Madras, or the Bank of Bombay, as the case may be, or any branch thereof respectively, to the account of the Official Liquidator instead of to the Official Liquidator, and such order may be enforced in the same manner as if it had directed payment to the Official Liquidator.

Regulation of account with Court.

125. All monies, bills, notes and other securities, paid and delivered into the Bank of Bengal, the Bank of Madras, or the Bank of Bombay, or any branch thereof respectively, in the event of a Company being wound up by the Court, shall be subject to such order and regulation for the keeping of the account of such monies and other effects, and for the payment and delivery in, or investment and payment and delivery out, of the same, as the Court may direct.

Provision in case of representative contributory not paying monies ordered.

126. If any person made a contributory as personal representative of a deceased contributory makes default in paying any sum ordered to be paid by him, proceedings may be taken for administering the property of such deceased contributory, whether moveable or immoveable, or both, and of compelling payment thereout of the monies due.

Order conclusive evidence.

127. Any order made by the Court in pursuance of this Act upon any contributory shall, subject to the provisions herein contained for appealing against such order, be conclusive evidence that the monies, if any, thereby appearing to be due or ordered to be paid are due, and all other pertinent matters stated in such order are to be taken to be truly stated as against all persons and in all proceedings whatsoever.

Court may exclude creditors not proving within certain time.

128. The Court may fix a certain day or certain days on or within which creditors of the Company are to prove their debts or claims, or to be excluded from the benefit of any distribution made before such debts are proved.

129. The

Court to adjust rights of contributories

129. The Court shall adjust the rights of the contributories amongst themselves, and distribute any surplus that may remain amongst the parties entitled thereto.

Court to order costs.

130. The Court may, in the event of the assets being insufficient to satisfy the liabilities, make an order as to the payment out of the estate of the Company of the costs, charges and expenses incurred in winding-up any Company in such order of priority, as the Court thinks just.

Dissolution of Company.

131. When the affairs of the Company have been completely wound up, the Court shall make an order that the Company be dissolved from the date of such order, and the Company shall be dissolved accordingly.

Registrar to make Minute of dissolution of Company.

132. Any order so made shall be reported by the Official Liquidator to the Registrar, who shall make a Minute accordingly in his Books of the dissolution of such Company.

Penalty on not reporting dissolution of Company.

133. If the Official Liquidator makes default in reporting to the Registrar, in the case of a Company being wound up by the Court, the order that the Company be dissolved, he shall be liable to a penalty not exceeding one hundred rupees for every day during which he is so in default.

Extraordinary Powers of Court.

Power of Court to summon persons before it suspected of having property of Company.

134. The Court may, after it has made an order for winding-up the Company, summon before it any Officer of the Company or person known or suspected to have in his possession any of the estate or effects of the Company, or supposed to be indebted to the Company, or any person whom the Court may deem capable of giving information concerning the trade, dealings, estate or effects of the Company. The Court may require any such Officer or person to produce any documents in his custody or power relating to the Company. If any person so summoned, after being tendered a reasonable sum for his expenses, refuses to come before the Court at the time appointed, having no lawful impediment (made known to the Court at the time of its sitting and allowed by it), the Court may cause such person to be apprehended and brought before the Court for examination. Nevertheless, in cases where any person claims any lien on documents

documents produced by him, such production shall be without prejudice to such lien, and the Court shall have jurisdiction in the winding-up to determine all questions relating to such lien.

Examination of parties by Court.

135. The Court may examine upon oath or affirmation, either by word of mouth or upon written interrogatories, any person appearing or brought before it in manner aforesaid, concerning the affairs, dealings, estate or effects of the Company, and may reduce into writing the answers of every such person, and require him to subscribe the same.

Power to arrest contributory about to abscond or to remove or conceal any of his property.

136. The Court may, at any time before or after it has made an order for winding-up a Company, upon proof being given that there is probable cause for believing that any contributory to such Company is about to quit British India or otherwise abscond, or to remove or conceal any of his goods or chattels, for the purpose of evading payment of calls, or for avoiding examination in respect of the affairs of the Company, cause such contributory to be arrested, and his books, papers, monies, securities for monies, goods and chattels to be seized, and him and them to be safely kept until such time as the Court may order.

Powers of Court cumulative.

137. Any powers by this Act conferred on the Court shall be deemed to be in addition to, and not in restriction of, any other powers subsisting of instituting proceedings against any contributory, or the estate of any contributory, or against any debtor of the Company, for the recovery of any call or other sums due from such contributory or debtor, or his estate, and such proceedings may be instituted accordingly.

Enforcement of and Appeal from Orders.

Power to enforce orders.

138. All orders made by a Court under this Act may be enforced in the same manner in which decrees of such Court made in any suit pending therein may be enforced.

Order made in any Court to be enforced by other Courts.

139. Any order made by a Court for or in the course of the winding-up of a Company under this Act shall be enforced in any part of British India other than that in which such Court is situate, in the Court that would have had jurisdiction in respect of such Company if the registered Office of the Company had been situate in such other part, and in the same manner in all respects as if such order had been made by the Court that is hereby required to enforce the same.

140. Where

140. Where any order or decree made by one Court is required to be enforced by another Court as hereinbefore provided, a certified copy of the order or decree so made shall be produced to the proper Officer of the Court required to enforce the same, and the production of such certified copy shall be sufficient evidence of such order or decree having been made, and thereupon such last-mentioned Court shall take such steps in the matter as may be requisite for enforcing such order or decree, in the same manner as if it were the order or decree of the Court enforcing the same.

Mode of dealing with orders to be enforced by other Courts.

141. Re-hearings of and appeals from any order or decision made or given in the matter of the winding-up of a Company by the Court, may be had in the same manner and subject to the same conditions in and subject to which appeals may be had from any order or decision of the same Court in cases within its ordinary jurisdiction; subject to this restriction, that no such re-hearing or appeal shall be heard unless notice of the same is given within three weeks after any order complained of has been made, in manner in which notices of appeal are ordinarily given under the Code of Civil Procedure, unless such time is extended by the Court of Appeal.

Appeals from orders.

142. In all proceedings under this Part of this Act, every Court, Judge and person judicially acting, and all other Officers, judicial or ministerial, of any Court, or employed in enforcing the process of any Court, shall take judicial notice of the signature of any Officer of any other Court, and also of the official seal of any other Court when such seal is appended to any document made, issued, or signed under the provisions of this Part of the Act, or any official copy thereof.

Judicial notice to be taken of signature of Officers.

143. The Judges of the District Courts who sit at places more than twenty English miles from the usual place of sitting of the High Court, shall be Commissioners for the purpose of taking evidence under this Act in cases where any Company is wound up in a High Court, and it shall be lawful for the High Court to refer the whole or any part of the examination of any witnesses under this Act to any person hereby appointed Commissioner, although such Commissioner is out of the jurisdiction of the Court that made the order or decree for winding-up the Company. Every such Commissioner shall, in addition to any power of summoning and examining witnesses, and requiring the production or delivery

Special Commissioners for receiving evidence.

delivery of documents and certifying or punishing defaults by witnesses, which he might lawfully exercise as a Judge of a District Court, have, in the matter so referred to him, all the same powers of summoning and examining witnesses and requiring the production or delivery of documents and punishing defaults by witnesses, and allowing costs and charges and expenses to witnesses, as the Court which made the order for winding-up the Company has; and the examination so taken shall be returned or reported to such last-mentioned Court in such manner as it directs.

Affidavits, &c., may be sworn in British India, Great Britain or Ireland, or abroad, before any competent Court or person.

144. If any affidavit, affirmation or declaration required to be sworn or made under the provisions or for the purposes of this Part of this Act, be lawfully sworn or made in British India, or in Great Britain or Ireland, or in any Colony, Island, Plantation or place under the dominion of Her Majesty in foreign parts, before any Court, Judge or person lawfully authorized to take and receive affidavits, affirmations or declarations, or before any of Her Majesty's Consuls or Vice-Consuls in any foreign parts out of Her Majesty's dominions, all Courts, Judges, Justices, Commissioners and persons acting judicially in British India shall take judicial notice of the seal or stamp or signature (as the case may be) of any such Court, Judge, person, Consul or Vice-Consul, attached, appended or subscribed to any such affidavit, affirmation or declaration, or to any other document to be used for the purposes of this Part of this Act.

Voluntary Winding-up of Company.

Circumstances under which Company may be wound up voluntarily.

145. A Company under this Act may be wound up voluntarily,

(1.) Whenever the period, if any, fixed for the duration of the Company by the Articles of Association expires, or whenever the event, if any, occurs upon the occurrence of which it is provided by the Articles of Association that the Company is to be dissolved, and the Company in General Meeting has passed a Resolution requiring the Company to be wound up voluntarily:

(2.) Whenever the Company has passed a Special Resolution requiring the Company to be wound up voluntarily:

(3.) Whenever the Company has passed an Extraordinary Resolution to the effect that it has been proved to their satisfaction that the Company cannot by reason

reason of its liabilities continue its business, and that it is advisable to wind up the same:

For the purposes of this Act any Resolution shall be deemed to be extraordinary which is passed in such manner as would, if it had been confirmed by a subsequent meeting, have constituted a Special Resolution as hereinbefore defined.

Commencement of voluntary winding-up.

146. A voluntary winding-up shall be deemed to commence at the time of the passing of the Resolution authorizing such winding-up.

Effect of voluntary winding-up on status of Company.

147. Whenever a Company is wound up voluntarily, the Company shall, from the date of the commencement of such winding-up, cease to carry on its business except in so far as may be required for the beneficial winding-up thereof; and all transfers of shares except transfers made to or with the sanction of the Liquidators, or alteration in the status of the members of the Company taking place after the commencement of such winding-up, shall be void, but its corporate state and all its corporate powers shall, notwithstanding it is otherwise provided by its regulations, continue until the affairs of the Company are wound up.

Notice of Resolution to wind up voluntarily.

148. Notice of any Special Resolution or Extraordinary Resolution passed for winding-up a Company voluntarily shall be given by advertisement in the local Official Gazette and also in some newspaper (if any) circulating in the place where the registered Office of the Company is situate.

Consequence of voluntary winding-up.

149. The following consequences shall ensue upon the voluntary winding-up of a Company:—

(1.) The property of the Company shall be applied in satisfaction of its liabilities *pari passu*, and subject thereto shall, unless it be otherwise provided by the regulations of the Company, be distributed amongst the members according to their rights and interests in the Company:

(2.) Liquidators shall be appointed for the purpose of winding-up the affairs of the Company and distributing the property:

(3.) The Company in General Meeting shall appoint such persons or person as it thinks fit to be Liquidators or a Liquidator, and may fix the remuneration to be paid to them or him:

(4.) If one

(4.) If one person only is appointed, all the provisions herein contained in reference to several Liquidators shall apply to him:

(5.) Upon the appointment of Liquidators, all the powers of the Directors shall cease, except in so far as the Company in General Meeting or the Liquidators may sanction the continuance of such powers:

(6.) When several Liquidators are appointed, every power hereby given may be exercised by such one or more of them as may be determined at the time of their appointment, or, in default of such determination, by any number not less than two:

(7.) The Liquidators may, without the sanction of the Court, exercise all powers by this Act given to the Official Liquidators:

(8.) The Liquidators may exercise the powers hereinbefore given to the Court of settling the list of contributories of the Company, and any list so settled shall be *primâ facie* evidence of the liability of the persons named therein to be contributories:

(9.) The Liquidators may at any time after the passing of the Resolution for winding-up the Company, and before they have ascertained the sufficiency of the assets of the Company, call on all or any of the contributories for the time being settled on the list of contributories, to the extent of their liability, to pay all or any sums they deem necessary to satisfy the debts and liabilities of the Company, and the costs, charges and expenses of winding it up, and for the adjustment of the rights of the contributories amongst themselves, and the Liquidators may, in making a call, take into consideration the probability that some of the contributories upon whom the same is made may partly or wholly fail to pay their respective portions of the same:

(10.) The Liquidators shall pay the debts of the Company, and adjust the rights of the contributories amongst themselves.

Effect of winding-up on share-capital of Company limited by guarantee.

150. Where a Company limited by guarantee and having a capital divided into shares is being wound up voluntarily, any share-capital that may not have been called up shall be deemed to be assets of the Company, and to be a debt due from each member to the Company to the extent of any sums that may be unpaid on any shares held by him, and payable at such time as may be appointed by the Liquidators.

151. A Company

151. A Company about to be wound up voluntarily or in the course of being wound up voluntarily may, by an Extraordinary Resolution, delegate to its creditors, or to any Committee of its creditors, the power of appointing Liquidators or any of them, and supplying any vacancies in the appointment of Liquidators, or may by a like Resolution enter into any arrangement with respect to the powers to be exercised by the Liquidators and the manner in which they are to be exercised. Any act done by the creditors in pursuance of such delegated power shall have the same effect as if it had been done by the Company.

Power of Company to delegate authority to appoint Liquidators.

152. Any arrangement which a Company about to be wound up voluntarily or in the course of being wound up voluntarily shall have entered into with its creditors, shall be binding on the Company if sanctioned by an Extraordinary Resolution, and on the creditors if acceded to by three-fourths in number and value of the creditors, subject to such right of appeal as is hereinafter mentioned.

Arrangement when binding on creditors.

153. Any creditor or contributory of a Company that has in manner aforesaid entered into any arrangement with its creditors may, within three weeks from the date of the completion of such arrangement, appeal to the Court against such arrangement, and the Court may thereupon, as it thinks just, amend, vary or confirm the same.

Power of creditor or contributory to appeal.

154. Where a Company is being wound up voluntarily, the Liquidators or any contributory of the Company may apply to the Court to determine any question arising in the matter of such winding-up, or to exercise as respects the enforcing of calls or in respect of any other matter all or any of the powers which the Court might exercise if the Company were being wound up by the Court. The Court, if satisfied that the determination of such question or the required exercise of power will be just and beneficial, may accede, wholly or partially, to such application, on such terms and subject to such conditions as the Court thinks fit, or it may make such other order or decree on such application as the Court thinks just.

Power for Liquidators or contributories in voluntary winding-up to apply to Court.

155. Where a Company is being wound up voluntarily, the Liquidators may, from time to time during the continuance of such winding-up, summon General Meetings of the Company for the purpose of obtaining the sanction of the Company by Special Resolution or Extraordinary Resolution,

Power of Liquidators to call General Meeting.

Resolution, or for any other purposes they think fit. In the event of the winding-up continuing for more than one year, the Liquidators shall summon a General Meeting of the Company at the end of the first year and of each succeeding year from the commencement of the winding-up, or as soon thereafter as may be convenient, and shall lay before such meeting an account showing their acts and dealings and the manner in which the winding-up has been conducted during the preceding year.

Power to fill up vacancy in office of Liquidators.

156. If any vacancy occurs in the office of Liquidators appointed by the Company, by death, resignation or otherwise, the Company in General Meeting may, subject to any arrangement they may have entered into with their creditors, fill up such vacancy, and a General Meeting for the purpose of filling up such vacancy may be convened by the continuing Liquidators, if any, or by any contributory of the Company, and shall be deemed to have been duly held if held in manner prescribed by the regulations of the Company, or in such other manner as may, on application by the continuing Liquidator, if any, or by any contributory of the Company, be determined by the Court.

Power of Court to appoint Liquidators.

157. If from any cause whatever there is no Liquidator acting in the case of a voluntary winding-up, the Court may, on the application of a contributory, appoint a Liquidator or Liquidators. The Court may also, on due cause shown, remove any Liquidator, and appoint another Liquidator to act in the matter of a voluntary winding-up.

Liquidators on conclusion of winding-up to make up an account.

158. As soon as the affairs of the Company are fully wound up, the Liquidators shall make up an account showing the manner in which such winding-up has been conducted and the property of the Company disposed of; and thereupon they shall call a General Meeting of the Company for the purpose of having the account laid before them, and hearing any explanation that may be given by the Liquidators. The meeting shall be called by advertisement, specifying the time, place and object of such meeting, and such advertisement shall be published one month at least previously to the meeting, in the manner specified in Section 148.

Liquidators to report meeting to Registrar.

159. The Liquidators shall make a return to the Registrar of such meeting having been held, and of the date at which the same was held, and on the expiration of three months from the date of the

the registration of such return, the Company shall be deemed to be dissolved. If the Liquidators make default in making such return to the Registrar, they shall incur a penalty not exceeding fifty rupees for every day during which such default continues.

Costs of voluntary liquidation.

160. All costs, charges and expenses properly incurred in the voluntary winding-up of a Company, including the remuneration of the Liquidators, shall be payable out of the assets of the Company in priority to all other claims.

Saving of rights of creditors.

161. The voluntary winding-up of a Company shall not be a bar to the right of any creditor of such Company to have the same wound up by the Court, if the Court is of opinion that the rights of such creditor will be prejudiced by a voluntary winding-up.

Power of Court to adopt proceedings of voluntary winding-up.

162. Where a Company is in course of being wound up voluntarily, and proceedings are taken for the purpose of having the same wound up by the Court, the Court may, if it thinks fit, notwithstanding that it makes an order directing the Company to be wound up by the Court, provide in such order or in any other order for the adoption of all or any of the proceedings taken in the course of the voluntary winding-up.

Winding-up subject to the Supervision of the Court.

Power of Court, on application, to direct winding-up subject to supervision.

163. When a Resolution has been passed by a Company to wind up voluntarily, the Court may make an order directing that the voluntary winding-up should continue, but subject to such supervision of the Court, and with such liberty for creditors, contributories or others to apply to the Court, and generally upon such terms and subject to such conditions, as the Court thinks just.

Petition for winding-up subject to supervision.

164. A petition praying wholly or in part that a voluntary winding-up should continue, but subject to the supervision of the Court, and which winding-up is hereinafter referred to as a winding-up subject to the supervision of the Court, shall, for the purpose of giving jurisdiction to the Court over suits, be deemed to be a petition for winding-up the Company by the Court.

Court may have regard to wishes of creditors.

165. The Court may, in determining whether a Company is to be wound up altogether by the Court or subject to the supervision of the Court, in the appointment of a Liquidator or of Liquidators, and in all

in all other matters relating to the winding-up subject to supervision, have regard to the wishes of the creditors or contributories as proved to it by any sufficient evidence, and may direct meetings of the creditors or contributories to be summoned, held and regulated in such manner as the Court directs for the purpose of ascertaining their wishes, and may appoint a person to act as Chairman of any such meeting, and to report the result of such meeting to the Court. In the case of creditors, regard shall be had to the value of the debts due to each creditor, and in the case of contributories to the number of votes conferred on each contributory by the regulations of the Company.

Power to Court to appoint additional Liquidators in winding-up subject to supervision.

166. Where any order is made by the Court for a winding-up subject to the supervision of the Court, the Court may, in such order or in any subsequent order, appoint any additional Liquidator or Liquidators. Any Liquidators so appointed by the Court shall have the same powers, be subject to the same obligations, and in all respects stand in the same position as if they had been appointed by the Company. The Court may from time to time remove any Liquidators so appointed by the Court, and fill up any vacancy occasioned by such removal, or by death or resignation.

Effect of order of Court for winding-up subject to supervision.

167. Where an order is made for a winding-up subject to the supervision of the Court, the Liquidators appointed to conduct such winding-up may, subject to any restrictions imposed by the Court, exercise all their powers, without the sanction or intervention of the Court, in the same manner as if the Company were being wound up altogether voluntarily. Save as aforesaid, any order made by the Court for a winding-up subject to the supervision of the Court, shall for all purposes, including the staying of suits and other proceedings, be deemed to be an order of the Court for winding-up the Company by the Court, and shall confer full authority on the Court to make calls, or to enforce calls made by the Liquidators, and to exercise all other powers which it might have exercised if an order had been made for winding-up the Company altogether by the Court. In the construction of the provisions whereby the Court is empowered to direct any act or thing to be done to or in favour of the Official Liquidators, the expression Official Liquidators shall be deemed to mean the Liquidators conducting the winding-up subject to the supervision of the Court.

Appointment in certain cases of voluntary Liquidators to office of Official Liquidators.

168. Where an order has been made for the winding-up of a Company subject to the supervision of the Court, and such order is afterwards superseded by an order directing the Company to be wound up compulsorily, the Court may, in such last-mentioned order

order or in any subsequent order, appoint the voluntary Liquidators or any of them, either provisionally or permanently, and either with or without the addition of any other persons to be Official Liquidators.

Supplemental Provisions.

Dispositions after the commencement of the winding-up avoided.

169. Where any Company is being wound up by the Court or subject to the supervision of the Court, all dispositions of the property, effects and things in action of the Company, and every transfer of shares or alteration in the status of the members of the Company, made between the commencement of the winding-up and the order for winding-up, shall, unless the Court otherwise orders, be void.

The books of the Company to be evidence.

170. Where any Company is being wound up, all books, accounts and documents of the Company and of the Liquidators shall, as between the contributories of the Company, be *primâ facie* evidence of the truth of all matters purporting to be therein recorded.

As to disposal of books, accounts and documents of the Company.

171. Where any Company has been wound up under this Act and is about to be dissolved, the books, accounts and documents of the Company and of the Liquidators may be disposed of in the following way; that is to say, where the Company has been wound up by or subject to the supervision of the Court, in such way as the Court directs, and where the Company has been wound up voluntarily, in such way as the Company by an Extraordinary Resolution directs. But after the lapse of five years from the date of such dissolution, no responsibility shall rest on the Company or the Liquidators, or any one to whom the custody of such books, accounts and documents has been committed, by reason that the same or any of them cannot be made forthcoming to any party or parties claiming to be interested therein.

Inspection of books.

172. Where an order has been made for winding-up a Company by the Court or subject to the supervision of the Court, the Court may make such order for the inspection by the creditors and contributories of the Company of its books and papers as the Court thinks just, and any books and papers in the possession of the Company may be inspected by creditors or contributories in conformity with the order of the Court, but not further or otherwise.

General scheme of liquidation may be sanctioned.

173. The Liquidators may, with the sanction of the Court, where the Company is being wound up by the Court or subject to the supervision of the Court, and with the sanction of an Extraordinary Resolution of the Company where the Company is being wound

wound up altogether voluntarily, pay any classes of creditors in full, or make such compromise or other arrangement as the Liquidators may deem expedient with creditors or persons claiming to be creditors, or persons having or alleging themselves to have any claim, present or future, whereby the Company may be rendered liable.

Power to compromise.

174. The Liquidators may, with the sanction of the Court where the Company is being wound up by the Court or subject to the supervision of the Court, and with the sanction of an Extraordinary Resolution of the Company where the Company is being wound up altogether voluntarily, compromise all calls and liabilities to calls, debts and liabilities capable of resulting in debts, and all claims, whether present or future, subsisting or supposed to subsist, between the Company and any contributory or alleged contributory, or other debtor or person apprehending liability to the Company, and all questions in any way relating to or affecting the assets of the Company or the winding-up of the Company, generally upon such terms as may be agreed upon, with power for the Liquidators to take any security for the discharge of such debts or liabilities, and to give complete discharges in respect of all or any such calls, debts or liabilities.

Power for Liquidators to accept shares, &c., as a consideration for sale of property of Company.

175. Where any Company is proposed to be or is in the course of being wound up altogether voluntarily, and the whole or a portion of its business or property is proposed to be transferred or sold to another Company, the Liquidators of the first mentioned Company may, with the sanction of a Special Resolution of the Company by whom they were appointed, conferring either a general authority on the Liquidators, or an authority in respect of any particular arrangement, receive in compensation or part compensation for such transfer or sale, shares, debentures, policies or other like interests in such other Company, for the purpose of distribution amongst the members of the Company being wound up, or may enter into any other arrangement whereby the members of the Company being wound up may, in lieu of receiving cash, shares, debentures, policies or other like interests, or in addition thereto, participate in the profits of or receive any other benefit from the purchasing Company; and any sale made or arrangement entered into by the Liquidators in pursuance of this Section shall be binding on the members of the Company being wound up; subject to this proviso that, if any member of the Company being wound up, who has not voted in favour of the Special Resolution passed by the Company of which he is a member at either of the meetings held for passing the same, expresses his dissent from any such Special

Resolution

Resolution in writing addressed to the Liquidators or one of them, and left at the registered Office of the Company not later than seven days after the date of the meeting at which such Special Resolution was passed, such dissentient member may require the Liquidators to do one of the following things as the Liquidators may prefer; that is to say, either to abstain from carrying such Resolution into effect, or to purchase the interest held by such dissentient member at a price to be determined in manner hereinafter mentioned, such purchase money to be paid before the Company is dissolved, and to be raised by the Liquidators in such manner as may be determined by Special Resolution. No Special Resolution shall be deemed invalid for the purposes of this Section by reason that it is passed antecedently to or concurrently with any Resolution for winding-up the Company, or for appointing Liquidators; but if an order be made within a year for winding-up the Company by or subject to the supervision of the Court, such Resolution shall not be of any validity unless it is sanctioned by the Court.

Mode of determining price.

176. The price to be paid for the purchase of the interest of any dissentient member may be determined by agreement. If the parties dispute about the same, such dispute shall be settled by arbitration under the provisions next hereinafter contained.

Appointment of Arbitrator when questions are to be determined by arbitration.

177. When any dispute so directed to be settled by arbitration shall have arisen, then, unless both parties shall concur in the appointment of a single Arbitrator, each party, on the request of the other party, shall by writing under his hand nominate and appoint an Arbitrator to whom such dispute shall be referred. After any such appointment shall have been made, neither party shall have power to revoke the same without the consent of the other, nor shall the death of either party operate as such revocation. If for the space of fourteen days after any such dispute shall have arisen, and after a request in writing shall have been served by the one party on the other party to appoint an Arbitrator, such last mentioned party fail to appoint such Arbitrator, then upon such failure the party making the request, and having himself appointed an Arbitrator, may appoint such Arbitrator to act on behalf of both parties, and such Arbitrator may proceed to hear and determine the matters which shall be in dispute; and in such case the award or determination of such single Arbitrator shall be final.

Vacancy of Arbitrator to be supplied.

178. If before the matters so referred shall be determined any Arbitrator appointed by either party die, or become incapable or refuse or for seven days neglect to act as Arbitrator, the party by whom

whom such Arbitrator was appointed may nominate and appoint in writing some other person to act in his place; and if for the space of seven days after notice in writing from the other party for that purpose he fail to do so, the remaining or other Arbitrator may proceed *ex parte*; and every Arbitrator so substituted as aforesaid shall have the same powers and authorities as were vested in the former Arbitrator at the time of such his death, refusal or disability as aforesaid.

Appointment of Umpire.

179. Where more than one Arbitrator shall have been appointed, such Arbitrators shall, before they enter upon the matters referred to them, nominate and appoint by writing under their hands an Umpire to decide on any such matters on which they shall differ. If such Umpire shall die, or refuse or for seven days neglect to act, they shall forthwith, after such death, refusal or neglect, appoint another Umpire in his place; and the decision of every such Umpire on the matters so referred to him shall be final.

Power of Arbitrators to call for books, &c.

180. The said Arbitrators or their Umpire may call for the production of any documents in the possession or power of either party which they or he may think necessary for determining the question in dispute, and may examine the parties or their witnesses on oath, and administer the oaths necessary for that purpose.

Costs to be in the discretion of the Arbitrators.

181. The costs of and attending every such arbitration to be determined by the Arbitrators shall be in the discretion of the Arbitrators or their Umpires, as the case may be.

Submission to arbitration may be filed in Court.

182. On the application of either of the parties the submission to any such arbitration may be filed in the Court, and an order of reference may be made thereon; and the provisions of the Code of Civil Procedure shall, so far as the same are applicable, apply to every such order and to all proceedings thereunder.

Certain attachments, distresses and executions to be void.

183. Where any Company is being wound up by the Court or subject to the supervision of the Court, any attachment, distress or execution put in force against the estate or effects of the Company after the commencement of the winding-up shall be void.

Fraudulent preference.

184. Every conveyance, mortgage, delivery of goods, payment, execution or other act relating to property, which would, if made or done by or against any individual trader, be deemed in the event of his

of his insolvency to have been made or done by way of undue or fraudulent preference of the creditors of such trader, shall, if made or done by or against any Company, be deemed, in the event of such Company being wound up under this Act, to have been made or done by way of undue or fraudulent preference of the creditors of such Company, and shall be invalid accordingly. For the purposes of this Section, the making of an application for winding-up a Company shall, in the case of a Company being wound up by the Court or subject to the supervision of the Court, and a Resolution for winding-up the Company shall, in the case of a voluntary winding-up, be deemed to correspond with the act of insolvency in the case of an individual trader; and any conveyance or assignment made by any Company formed under this Act, of all its estate and effects to trustees for the benefit of all its creditors, shall be void.

Power of Court to assess damages against delinquent Directors and Officers.

185. Where in the course of the winding-up of any Company under this Act, it appears that any past or present Director, Manager, Official or other Liquidator, or any Officer of such Company, has misapplied or retained in his own hands or become liable or accountable for any monies of the Company, or been guilty of any misfeasance or breach of trust in relation to the Company, the Court may, on the application of any Liquidator, or of any creditor or contributory of the Company, notwithstanding that the offence is one for which the offender is criminally responsible, examine into the conduct of such Director, Manager or other Officer, and compel him to repay any monies so misapplied or retained, or for which he has become liable or accountable, together with interest after such rate as the Court thinks just, or to contribute such sums of money to the assets of the Company by way of compensation in respect of such misapplication, retainer, misfeasance or breach of trust, as the Court thinks just.

Penalty on falsification of books.

186. If any Director, Officer or contributory of any Company wound up under this Act, destroys, mutilates, alters, falsifies or fraudulently secretes any books, papers, writings or securities, or makes or is privy to the making of any false or fraudulent entry in any Register, book of account or other document belonging to the Company with intent to defraud or deceive any person, every person so offending shall be punished with imprisonment of either description as defined in the Indian Penal Code, for a term which may extend to two years, and shall also be liable to fine which may extend to five hundred rupees.

187. Where

Prosecution of delinquent Directors in the case of winding-up by Court.

187. Where any order is made for winding-up a Company by the Court or subject to the supervision of the Court, if it appear in the course of such winding-up that any past or present Director, Manager, Officer or member of such Company has been guilty of any offence in relation to the Company for which he is criminally responsible, the Court may, on the application of any person interested in such winding-up or of its own motion, direct the Official Liquidator's, or the Liquidators (as the case may be), to institute a prosecution for such offence, and may order the costs and expenses of such prosecution to be paid out of the assets of the Company.

Penalty of false evidence.

188. If any person, upon any examination upon oath or affirmation authorized under this Act, or in any affidavit, deposition or solemn affirmation in or about the winding-up of any Company under this Act, or otherwise in or about any matter arising under this Act, intentionally gives false evidence, he shall, upon conviction, be liable to imprisonment of either description as defined in the Indian Penal Code for a term which may extend to seven years and shall also be liable to fine.

Power of High Court to make Rules.

Power of High Court to make rules.

189. The High Court may make such rules concerning the mode of proceeding to be had for winding-up a Company in such Court and in the Courts subordinate thereto, as may from time to time seem necessary and as may be consistent with the other provisions of this Act and with the Code of Civil Procedure. But until such rules are made, the general practice of the Court including the practice hitherto in use in winding-up Companies shall, so far as the same is applicable and not inconsistent with this Act, apply to all proceedings for winding-up a Company.

PART V.

Registration Office.

Constitution of Registration Office.

190. The registration of Companies under this Act shall be conducted as follows; (that is to say)—

(1.) The Local Government may, after the sanction of the Governor-General of India in Council to the creation of any such Offices shall have been obtained, from time to time appoint such Registrars, Assistant Registrars, Clerks and servants as it may think necessary for the registration of Companies under this Act, and remove them at pleasure:

(2.) The

(2.) The Local Government may make such regulations as it thinks fit with respect to the duties to be performed by any such Registrars, Assistant Registrars, Clerks and servants as aforesaid.

(3.) The Local Government may from time to time determine the places at which Offices for the registration of Companies are to be established, so that there be at all times maintained in each of the three Presidency Towns of Calcutta, Madras and Bombay at least one such Office, and that no Company shall be registered except at an Office within that part of British India in which by the memorandum of association the registered Office of the Company is declared to be established:

(4.) The Local Government may from time to time direct a seal or seals to be prepared for the authentication of any documents required for or connected with the registration of Companies:

(5.) Every person may inspect the documents kept by the Registrar of Joint Stock Companies. There shall be paid for such inspection such fees as may be appointed by the Local Government not exceeding one rupee for each inspection. Any person may require a certificate of the incorporation of any Company, or a copy or extract of any other document or any part of any other document, to be certified by the Registrar. There shall be paid for such certificate of incorporation, certified copy or extract, such fees as the Local Government may appoint, not exceeding three rupees for the certificate of incorporation, and not exceeding two annas for each hundred words of such copy or extract:

(6.) The existing Registrar, Assistant Registrars, Clerks and other Officers and servants in the Office for the registration of Joint Stock Companies shall, during the pleasure of the Local Government hold the Offices and receive the salaries hitherto held and received by them, but they shall in the execution of their duties conform to any regulations that may be issued by the Local Government:

(7.) There shall be paid to any Registrar, Assistant Registrar, Clerk or servant that may hereafter be employed in the registration of Joint Stock Companies, such salary as the Local Government may, with the sanction of the Governor-General of India in Council, direct:

(8.) Whenever

(8.) Whenever any act is herein directed to be done to or by the Registrar of Joint Stock Companies, such act shall, until the Local Government otherwise directs, be done to or by the existing Registrar of Joint Stock Companies, or in his absence to or by such person as the Local Government may for the time being authorize. But in the event of the Local Government altering the constitution of the existing Registry Office, such act shall be done to or by such Officer or Officers and at such place or places with reference to the local situation of the registered Offices of the Companies to be registered as the Local Government may appoint.

PART VI.

APPLICATION OF ACT TO COMPANIES REGISTERED UNDER THE JOINT STOCK COMPANIES' ACTS.

Application of Act to Companies formed under Act XIX of 1857 or VII of 1860.

191. Subject as hereinafter mentioned, this Act, with the exception of Table A in the first Schedule, shall apply to Companies formed and registered under Act No. XIX of 1857 and Act No. VII of 1860 or either of them, in the same manner in the case of a Limited Company as if such Company had been formed and registered under this Act as a Company limited by shares; and in the case of a Company other than a Limited Company, as if such Company had been formed and registered as an Unlimited Company under this Act, with this qualification, that wherever reference is made expressly or impliedly to the date of registration, such date shall be deemed to refer to the date at which such Companies were respectively registered under the said Acts or either of them, and the power of altering regulations by Special Resolution given by this Act shall, in the case of any Company formed and registered under the said Acts or either of them, extend to altering any provisions contained in the Table marked B annexed to Act No. XIX of 1857, and shall also, in the case of an Unlimited Company formed and registered as last aforesaid, extend to altering any regulations relating to the amount of capital or its distribution into shares, notwithstanding such regulations are contained in the memorandum of association.

Application of Act to Companies registered under Act XIX of 1857 or VII of 1860.

192. This Act shall apply to Companies registered but not formed under the said Acts or either of them, in the same manner as it is hereinafter declared to apply to Companies registered but not formed under this Act, with this qualification, that wherever reference is made expressly or impliedly to the date of registration

tration, such date shall be deemed to refer to the date at which such Companies were respectively registered under the said Acts or either of them.

Mode of transferring shares.

193. Any Company registered under the said Acts or either of them may cause its shares to be transferred in manner hitherto in use, or in such other manner as the Company may direct.

PART VII.

Companies authorized to register under this Act.

Companies capable of being registered.

194. With the exceptions made in the next following Section and subject to the regulations therein contained, every Company existing at the time of the commencement of this Act, including any Company registered under either of the said Acts, consisting of seven or more members, and any Company hereafter formed in pursuance of any Act of Parliament, or Act of the Governor-General of India in Council other than this Act, or of Letters Patent, or being otherwise duly constituted by law, and consisting of seven or more members, may at any time hereafter register itself under this Act as an Unlimited Company, or a Company limited by shares, or a Company limited by guarantee, and no such registration shall be invalid by reason that it has taken place with a view to the Company being wound up.

Regulations as to registration of existing Companies.

195. The following regulations shall be observed with respect to the registration of Companies under this Part of this Act: (that is to say)—

(1.) No Company having the liability of its members limited by Act of Parliament or Act of the Governor-General of India in Council other than this Act, or by Letters Patent, and not being a Joint Stock Company as hereinafter defined, shall register under this Act in pursuance of this Part thereof:

(2.) No Company having the liability of its members limited by Act of Parliament or Act of the Governor-General of India in Council other than this Act, or by Letters Patent, shall register under this Act in pursuance of this Part thereof as an Unlimited Company, or as a Company limited by guarantee:

(3.) No Life Assurance Company existing at the time of the [illegible] ment of this Act, and no Company that is not a Joint Stock Com[illegible] inafter defined, shall in pursuance of this Part of this Act register [illegible] as a Company limited by shares:

(4.) No Company shall register under this Act in pursuance of this Part thereof unless an assent to its so registering is given by a majority of such of its members as may be present, personally or by proxy in cases where proxies are allowed by the regulations of the Company, at some General Meeting summoned for the purpose:

(5.) Where a Company not having the liability of its members limited by Act of Parliament or Act of the Governor-General of India in Council, or by Letters Patent, is about to register as a Limited Company, the majority required to assent as aforesaid shall consist of not less than three-fourths of the members present, personally or by proxy, at such last-mentioned General Meeting:

(6.) Where a Company is about to register as a Company limited by guarantee, the assent to its being so registered shall be accompanied by a Resolution declaring that each member undertakes to contribute to the assets of the Company, in the event of the same being wound up during the time that he is a member or within one year afterwards, for payment of the debts and liabilities of the Company contracted before the time at which he ceased to be a member, and of the costs, charges and expenses of winding-up the Company, and for the adjustment of the rights of the contributories amongst themselves, such amount as may be required not exceeding a specified amount.

In computing any majority under this Section, when a poll is demanded, regard shall be had to the number of votes to which each member is entitled according to the regulations of the Company of which he is a member.

Definition of Joint Stock Company.

196. For the purposes of this Part of this Act so far as the same relates to the description of Companies empowered to register as Companies limited by shares, a Joint Stock Company shall be deemed to be a Company having a permanent paid-up or nominal capital of fixed amount, divided into shares, also of fixed amount, or held and transferable as stock, or divided and held partly in one way and partly in the other, and formed on the principle of having for its members the holders of shares in such capital, [illegible] holders of such stock, and no other persons; and such Company when [illegible]ed with limited liability under this Act shall be deemed to be a Company [illegible]y shares.

[illegible]or re-[illegible]om-

197. Previously to the registration, in pursuance of this Part of this Act, of any Joint Stock Company, there shall be delivered to the Registrar the following documents: (that is to say),

(1.) A list

(1.) A list showing the names, addresses and occupations of all persons who, on a day named in such list and not being more than six clear days before the day of registration, were members of such Company, with the addition of the shares held by such persons respectively, distinguishing, in cases where such shares are numbered, each share by its number:

(2). A copy of any Act of Parliament or Act of the Governor-General of India in Council, Royal Charter, Letters Patent, Deed of Settlement, Contract of Copartnery or other instrument constituting or regulating the Company:

(3.) If any such Joint Stock Company is intended to be registered as a Limited Company, the above list and copy shall be accompanied by a statement specifying the following particulars; (that is to say)—

The nominal capital of the Company and the number of shares into which it is divided:

The number of shares taken and the amount paid on each share:

The name of the Company, with the addition of the word "Limited" as the last word thereof:

With the addition, in the case of a Company intended to be registered as a Company limited by guarantee, of the Resolution declaring the amount of the guarantee.

Requisitions for registration by existing Company not being a Joint Stock Company

198. Previously to the registration in pursuance of this Part of this Act of any Company not being a Joint Stock Company, there shall be delivered to the Registrar a list showing the names, addresses and occupations of the Directors or other Managers (if any) of the Company, also a copy of any Act of Parliament, Act of the Governor-General of India in Council, Letters Patent, Deed of Settlement, Contract of Copartnery or other instrument constituting or regulating the Company, with the addition, in the case of a Company intended to be registered as a Company limited by guarantee, of the Resolution declaring the amount of guarantee.

Power for existing Company to register amount of stock instead of shares

199. Where a Joint Stock Company authorized to register under this Act has had the whole or any portion of its capital converted into stock, such Company shall, as to the capital so converted, instead of delivering to the Registrar a statement of shares, deliver

deliver to the Registrar a statement of the amount of stock belonging to the Company, and the names of the persons who were holders of such stock, on some day to be named in the statement not more than six clear days before the day of registration.

Authentication of statements of existing Companies.

200. The lists of members and Directors and any other particulars relating to the Company hereby required to be delivered to the Registrar, shall be verified by declaration of the Directors of the Company delivering the same or any two of them, or of any two other principal Officers of the Company made before a Justice of the Peace or a District Judge.

Registrar may require evidence as to nature of Company

201. The Registrar may require such evidence as he thinks necessary for the purpose of satisfying himself whether an existing Company is or not a Joint Stock Company as hereinbefore defined.

On registration of Banking Company with limited liability, notice to be given to customers.

202. Every Banking Company existing at the date of the passing of this Act which registers itself as a Limited Company shall, at least thirty days previous to obtaining a certificate of registration with limited liability, give notice that it is intended so to register the same to every person and partnership firm having a banking account with the Company. Such notice shall be given either by delivering the same to such person or firm, or leaving the same, or putting the same into the Post addressed to him or them, at such address as shall have been last communicated or otherwise become known as his or their address to or by the Company. In case the Company omits to give any such notice as is hereinbefore required to be given, then, as between the Company and the person or persons only who are for the time being interested in the account in respect of which such notice ought to have been given, and so far as respects such account and all variations thereof down to the time at which such notice shall be given, but not further or otherwise, the certificate of registration with limited liability shall have no operation.

Exemption of certain Companies from payment of fees

203. No fees shall be charged in respect of the registration in pursuance of this Part of this Act of any Company in cases where such Company is not registered as a Limited Company, or where, previously to its being registered as a Limited Company, the liability of the shareholders was limited by some Act of Parliament, or Act of the Governor-General of India in Council, or by Letters Patent.

204. Any

204. Any Company authorized by this Part of this Act to register with limited liability shall, for the purpose of obtaining registration with limited liability, change its name by adding thereto the word "Limited."

Company to change name.

205. Upon compliance with the requisitions in this Part of this Act contained with respect to registration, and on payment of such fees, if any, as are payable under the Tables marked B and C in the first Schedule hereto, the Registrar shall certify under his hand that the Company so applying for registration is incorporated as a Company under this Act, and, in the case of a Limited Company, that it is limited, and thereupon such Company shall be incorporated, and shall have perpetual succession and a common seal.

Certificate of registration of existing Companies

206. A certificate of incorporation given at any time to any Company registered in pursuance of this Part of this Act shall be conclusive evidence that all the requisitions herein contained in respect of registration under this Act have been complied with, and that the Company is authorized to be registered under this Act as a Limited or Unlimited Company, as the case may be, and the date of incorporation mentioned in such certificate shall be deemed to be the date at which the Company is incorporated under this Act

Certificate to be evidence of compliance with Act.

207. All such property, moveable and immoveable, including all interests and rights in, to, and out of property, moveable and immoveable, and including obligations and things in action, as may belong to or be vested in the Company at the date of its registration under this Act, shall, on registration, pass to and vest in the Company as incorporated under this Act for all the estate and interest of the Company therein.

Transfer of property to Company

208 The registration in pursuance of this Part of this Act of any Company shall not affect or prejudice the liability of such Company to have enforced against it, or its right to enforce, any debt or obligation incurred, or any contract entered into, by, to, with or on behalf of such Company previously to such registration.

Registration under this Act not to affect obligations incurred previously to registration

209. All such suits and other legal proceedings as may at the time of the registration of any Company registered in pursuance of this Part of this Act have been commenced by or against such Company

Continuation of existing suits.

pany, or the public Officer or any member thereof, may be continued in the same manner as if such registration had not taken place. Nevertheless, execution shall not issue against the effects of any individual member of such Company upon any decree or order obtained in any suit or proceeding so commenced as aforesaid, but in the event of the property and effects of the Company being insufficient to satisfy such decree or order, an order may be obtained for winding-up the Company.

Effect of registration under Act

210. When a Company is registered under this Act in pursuance of this Part thereof, all provisions contained in any Act of Parliament, Act of the Governor-General of India in Council, Deed of Settlement, Contract of Copartnery, Letters Patent or other instrument constituting or regulating the Company, including, in the case of a Company registered as a Company limited by guarantee, the Resolution declaring the amount of the guarantee, shall be deemed to be conditions and regulations of the Company, in the same manner and with the same incidents as if they were contained in a registered memorandum of association and Articles of Association; and all the provisions of this Act shall apply to such Company and the members, contributories and creditors thereof, in the same manner in all respects as if it had been formed under this Act, subject to the provisions following; (that is to say),

(1.) That Table A in the first Schedule to this Act shall not, unless adopted by Special Resolution, apply to any Company registered under this Act in pursuance of this Part thereof:

(2.) That the provisions of this Act relating to the numbering of shares shall not apply to any Joint Stock Company whose shares are not numbered:

(3.) That no Company shall have power to alter any provision contained in any Act of Parliament, Act of the Legislative Council or Act of the Governor-General of India in Council relating to the Company:

(4.) That no Company shall have power, without the sanction of the Governor-General of India in Council, to alter any provision contained in any Letters Patent relating to the Company:

(5.) In the event of the Company being wound up, every person shall be a contributory, in respect of the debts and liabilities of the Company contracted prior to registration, who is liable to pay or contribute to the payment of any debt or liability of the Company contracted prior to registration, or to pay or contribute

or contribute to the payment of any sum for the adjustment of the rights of the members amongst themselves in respect of any such debt or liability; or to pay or contribute to the payment of the costs, charges and expenses of winding-up the Company, so far as relates to such debts or liabilities as aforesaid. Every such contributory shall be liable to contribute to the assets of the Company, in the course of the winding-up, all sums due from him in respect of any such liability as aforesaid. In the event of the death or insolvency of any such contributory as last aforesaid, or marriage of any such contributory being a female, the provisions hereinbefore contained with respect to the representatives, heirs and devisees of deceased contributories, and with reference to the assignees of insolvent contributories, and to the husbands of married contributories, shall apply:

(6.) Nothing herein contained shall authorize any Company to alter any such provisions contained in any Deed of Settlement, Contract of Copartnery, Letters Patent or other instrument constituting or regulating the Company, as would, if such Company had originally been formed under this Act, have been contained in the memorandum of association, and are not authorized to be altered by this Act:

But nothing herein contained shall derogate from any power of altering its constitution or regulations which may be vested in any Company registering under this Act in pursuance of this Part thereof by virtue of any Act of Parliament, Act of the Governor-General of India in Council, Deed of Settlement, Contract of Copartnery, Letters Patent or other instrument constituting or regulating the Company.

Powers of Court to restrain further proceedings.

211. The Court may, at any time after the presentation of a petition for winding-up a Company registered in pursuance of this Part of this Act, and before making an order for winding-up the Company, upon the application of any creditor of the Company, restrain further proceedings in any suit or legal proceeding against any contributory of the Company as well as against the Company as hereinbefore provided, upon such terms as the Court thinks fit.

Order for winding-up Company.

212. Where an order has been made for winding-up a Company registered in pursuance of this Part of the Act, in addition to the provisions hereinbefore contained, it is hereby further provided that no suit or other legal proceeding shall be commenced or proceeded with against

against any contributory of the Company in respect of any debt of the Company, except with the leave of the Court and subject to such terms as the Court may impose.

PART VIII.

APPLICATION OF ACT TO UNREGISTERED COMPANIES.

Winding-up of Unregistered Companies.

213. Subject as hereinafter mentioned any partnership, association or Company, except Railway Companies incorporated by Act of Parliament or Act of the Governor-General of India in Council, consisting of more than seven members and not registered under this Act, and hereinafter included under the term Unregistered Company, may be wound up under this Act, and all the provisions of this Act with respect to winding-up shall apply to such Company, with the following exceptions and additions:—

(1.) An Unregistered Company shall, for the purpose of determining the Court having jurisdiction in the matter of the winding-up, be deemed to be registered in that part of British India where its principal place of business is situate; or if it has a principal place of business situate in more than one part of British India, then in each part of British India where it has a principal place of business. Moreover, the principal place of business of an Unregistered Company, or (where it has a principal place of business situate in more than one part of British India) such one of its principal places of business as is situate in that part of British India in which proceedings are being instituted, shall, for all the purposes of the winding-up of such Company, be deemed to be the registered Office of the Company:

(2.) No Unregistered Company shall be wound up under this Act voluntarily, or subject to the supervision of the Court:

(3.) The circumstances under which an Unregistered Company may be wound up are as follows; (that is to say):—

(*a*.) Whenever the Company is dissolved or has ceased to carry on business, or is carrying on business only for the purpose of winding-up its affairs;

(*b*.) Whenever the Company is unable to pay its debts;

(*c*.) Whenever the Court is of opinion that it is just and equitable that the Company should be wound up:

(4.) An

(4.) An Unregistered Company shall, for the purposes of this Act, be deemed to be unable to pay its debts,

(*a.*) Whenever a creditor to whom the Company is indebted, by assignment or otherwise, in a sum exceeding five hundred rupees then due, has served on the Company, by leaving the same at the principal place of business of the Company or by delivering to the Secretary or some Director or principal Officer of the Company, or by otherwise serving the same in such manner as the Court may approve or direct, a demand under his hand requiring the Company to pay the sum so due, and the Company has for the space of three weeks succeeding the service of such demand neglected to pay such sum, or to secure or compound for the same to the satisfaction of the creditor:

(*b.*) Whenever any suit or other proceeding has been instituted against any member of the Company for any debt or demand due or claimed to be due from the Company, or from him in his character of member of the Company, and, notice in writing of the institution of such suit or other legal proceeding having been served upon the Company by leaving the same at the principal place of business of the Company, or by delivering it to the Secretary, or some Director, Manager or principal Officer of the Company, or by otherwise serving the same in such manner as the Court may approve or direct, the Company has not within ten days after service of such notice paid, secured or compounded for such debt or demand, or procured such suit or other legal proceeding to be stayed, or indemnified the defendant to his reasonable satisfaction against such suit or other legal proceeding, and against all costs, damages and expenses to be incurred by him by reason of the same:

(*c.*) Whenever execution or other process issued on a decree or order obtained in any Court in favour of any creditor in any proceeding instituted by such creditor against the Company, or any member thereof as such, or against any person authorized to be sued as nominal defendant on behalf of the Company, is returned unsatisfied:

(*d.*) Whenever it is otherwise proved to the satisfaction of the Court that the Company is unable to pay its debts.

Who to be deemed a contributory in the event of Company being wound up.

214. In the event of an Unregistered Company being wound up, every person shall be deemed to be a contributory who is liable to pay or contribute to the payment of any debt or liability of the Company, or to pay or contribute to the payment of any sum for the adjustment of the rights of the members amongst themselves, or to pay

to pay or contribute to the payment of the costs, charges and expenses of winding up the Company. Every such contributory shall be liable to contribute to the assets of the Company in the course of the winding-up all sums due from him in respect of any such liability as aforesaid. In the event of the death or insolvency of any contributory, the provisions hereinbefore contained with respect to the personal representatives, heirs and devisees of a deceased contributory, and to the assignees of an insolvent contributory, shall apply.

Power of Court to restrain further proceedings.

215. The Court may, at any time after the making of an application for winding-up an Unregistered Company, and before making an order for winding-up the Company, upon the application of any creditor of the Company, restrain further proceedings in any suit or proceeding against any contributory of the Company, or against the Company as hereinbefore provided, upon such terms as the Court thinks fit.

Effect of order for winding-up Company.

216. Where an order has been made for winding-up an Unregistered Company, in addition to the provisions hereinbefore contained in the case of Companies formed under this Act, it is hereby further provided that no suit shall be commenced or proceeded with against any contributory of the Company in respect of any debt of the Company, except with the leave of the Court and subject to such terms as the Court may impose.

Provision in case of Unregistered Company.

217. If any Unregistered Company has no power to sue and be sued in a common name, or if, for any reason, it appears expedient, the Court may, by the order made for winding-up such Company or by any subsequent order, direct that all such property, moveable and immoveable, including all interests, claims and rights into and out of property, moveable and immoveable, and including things in action, as may belong to or be vested in the Company, or to or in any person or persons on trust for or on behalf of the Company or any part of such property, is to vest in the Official Liquidator or Official Liquidators by his or their official name or names, and thereupon the same or such part thereof as may be specified in the order shall vest accordingly, and the Official Liquidator or Official Liquidators may, in his or their official name or names, or in such name or names and after giving such indemnity as the Court directs, bring or defend any suits or other legal proceedings relating to any property vested in him or them, or any suits or other legal proceedings necessary to be brought or defended for the purposes of effectually winding-up the Company and recovering the property thereof.

218. The

Provisions of this Part of Act cumulative.

218. The provisions made by this Part of the Act with respect to Unregistered Companies shall be deemed to be made in addition to and not in restriction of any provisions hereinbefore contained with respect to winding-up Companies by the Court. The Court or Official Liquidator may, in addition to any thing contained in this Part of the Act, exercise any powers or do any act in the case of Unregistered Companies which might be exercised or done by it or him in winding-up Companies formed under this Act; but an Unregistered Company shall not, except in the event of its being wound up, be deemed to be a Company under this Act, and then only to the extent provided by this Part of this Act.

PART IX.

REPEAL OF ACTS AND MISCELLANEOUS PROVISIONS.

Repeal of Acts.

219. After the commencement of this Act, there shall be repealed the several Acts specified in the third Schedule hereto.

Saving Clause as to repeal.

220. No repeal hereby enacted shall affect—

(1.) Any thing duly done under any Acts hereby repealed:

(2.) The incorporation of any Company registered under any Act hereby repealed:

(3.) Any right or privilege acquired or liability incurred under any Act hereby repealed:

(4.) Any penalty, forfeiture or other punishment incurred in respect of any offence against any Act hereby repealed:

(5.) Table B in the Schedule annexed to Act No. XIX of 1857 or any part thereof, so far as the same applies to any Company existing at the time of the commencement of this Act.

Saving of existing proceedings for winding up.

221. Where previously to the commencement of this Act an order has been made for winding up a Company under any Acts or Act hereby repealed, or a Resolution has been passed for winding-up a Company voluntarily, such Company shall be wound up in the same manner and with the same incidents as if this Act were not passed, and for the purposes of such winding-up, such repealed Acts or Act shall be deemed to remain in full force.

222. Where

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222. Where previously to the commencement of this Act any conveyance, mortgage or other deed has been made in pursuance of any Act hereby repealed, such deed shall be of the same force as if this Act had not passed, and for the purposes of such deed, such repealed Act shall be deemed to remain in full force.

Saving of Conveyance Deeds.

223. Every Company required by any Act hereby repealed to register under the said Acts or either of them, and which has not so registered, shall, on or before the expiration of the thirty-first day from the commencement of this Act, register itself as a Company under this Act, in manner and subject to the regulations hereinbefore contained. No fees shall be charged in respect of the registration of any Company required to register by this Section.

Compulsory registration of certain Companies

224. If any Company required by the last Section to register under this Act makes default in complying with the provisions thereof, then, from and after the day upon which such Company is required to register under this Act, until the day on which such Company is registered under this Act (which it is empowered to do at any time), the following consequences shall ensue, (that is to say)—

Penalty on Company not registering.

(1.) The Company shall be incapable of suing but shall not be incapable of being made a defendant to a suit :

(2.) No dividend shall be payable to any shareholder in such Company :

(3.) Each Director or Manager of the Company shall, for each day during which the Company so being in default carries on business, incur a penalty not exceeding one hundred rupees, and such penalty may be recovered by any person, whether a shareholder or not in the Company, and be applied by him to his own use.

Nevertheless, such default shall not render the Company so being in default illegal, nor subject it to any penalty or disability other than as specified in this Section, and registration under this Act shall cancel any penalty or forfeiture, and put an end to any disability which any Company may have incurred by reason of its not having registered under the said Act No. XIX of 1856.

225. All offences under this Act may be tried by any Officer exercising the powers of a Magistrate, unless the period of imprisonment to which the offender is liable shall exceed that which such Officer is competent to award under the law for the time being in force in the place in which he is employed. When the period of imprisonment provided by this Act exceeds the period that may be awarded by such Officer, the offender shall be committed for trial before the Court of Session.

Cognizance of offences under this Act

226. If

226. If any offence which by this Act is declared to be punishable by any penalty shall be committed by any person within the local limits of the ordinary original Civil jurisdiction of the High Court, such offence shall be punishable upon summary conviction by any Magistrate of Police of the place at which such Court is held.

Punishment of offences under this Act, committed within local limits of High Court.

227. All penalties imposed under the authority of this Act may, in case of non-payment thereof, be levied by distress and sale of the offender's moveable property by warrant under the hand of the Officer imposing the penalty.

Levy of penalties by distress.

228. In case any such penalty shall not be forthwith paid, such Officer may order the offender to be arrested and kept in safe custody until the return can be conveniently made to such warrant of distress, unless the offender shall give security to the satisfaction of such Officer for his appearance at such place and time as shall be appointed for the return of the warrant of distress.

Procedure until return is made to distress warrant.

229. If upon the return of the warrant it shall appear that no sufficient distress can be had whereon to levy such penalty, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of such Officer, by the confession of the offender or otherwise, that he has not sufficient moveable property whereupon such penalty could be levied if a warrant of distress were issued, any such Officer may, by warrant under his hand, commit the offender to prison, for any term not exceeding two months when the amount of penalty shall not exceed fifty rupees, and for any term not exceeding four months when the amount shall not exceed one hundred rupees, and for any term not exceeding six months in any other case, the commitment to be determinable in each of the cases aforesaid on payment of the amount of penalty.

Imprisonment if no sufficent distress.

230. In Sections 1 and 18 of Act No. XXI of 1860 *(for the registration of Literary, Scientific and Charitable Societies)*, the words "Registrar of Joint Stock Companies" shall be construed to mean Registrar of Joint Stock Companies under this Act or any Act for the time being in force.

Construction of "Registrar of Joint Stock Companies" in Act No. XXI of 1860.

231. Save as provided in Section 125, nothing in this Act shall be deemed to apply to the Bank of Bengal, the Bank of Madras and the Bank of Bombay.

Act not to apply to Banks of Bengal, Madras or Bombay.

FIRST SCHEDULE.

FIRST SCHEDULE.

TABLE A.

REGULATIONS FOR MANAGEMENT OF A COMPANY LIMITED BY SHARES.

Shares.

(1.) If several persons are registered as joint holders of any share, any one of such persons may give effectual receipts for any dividend payable in respect of such share.

(2.) Every member shall, on payment of eight annas or such less sum as the Company in General Meeting may prescribe, be entitled to a certificate under the common seal of the Company, specifying the share or shares held by him, and the amount paid up thereon.

(3.) If such certificate is worn out or lost, it may be renewed, on payment of eight annas or such less sum as the Company in General Meeting may prescribe.

Calls on Shares.

(4.) The Directors may from time to time make such calls upon the members in respect of all monies unpaid on their shares as they think fit, provided that twenty-one days' notice at least is given of each call; and each member shall be liable to pay the amount of calls so made to the persons and at the times and places appointed by the Directors.

(5.) A call shall be deemed to have been made at the time when the Resolution of the Directors authorizing such call was passed.

(6.) If the call payable in respect of any share is not paid before or on the day appointed for payment thereof, the holder for the time being of such share shall be liable to pay interest for the same at the rate of five per cent. per annum from the day appointed for the payment thereof to the time of the actual payment.

(7.) The Directors may, if they think fit, receive from any member willing to advance the same all or any part of the monies due upon the shares held by him beyond the sums actually called for; and upon the monies so paid in advance, or so much thereof as from time to time exceeds the amount of the calls then made upon the shares in respect of which such advance has been made, the Company may pay interest at such rate as the member paying such sum in advance and the Directors agree upon.

Transfers

Transfers of Shares.

(8.) The instrument of transfer of any share in the Company shall be executed both by the transferor and transferee, and the transferor shall be deemed to remain a holder of such share until the name of the transferee is entered in the Register Book in respect thereof.

(9.) Shares in the Company shall be transferred in the following form:—

I, A B, of in consideration of the sum of rupees paid to me by C D of do hereby transfer to the said C D the share (or shares) numbered standing in my name in the books of the Company, to hold unto the said C D his executors, administrators and assigns, subject to the several conditions on which I held the same at the time of the execution hereof; and I, the said C D, do hereby agree to take the said share (or shares) subject to the same conditions. As witness our hands, the day of

(10.) The Company may decline to register any transfer of shares made by a member who is indebted to them.

(11.) The transfer books shall be closed during the fourteen days immediately preceding the Ordinary General Meeting in each year.

Transmission of Shares.

(12.) The executors or administrators of a deceased member shall be the only persons recognized by the Company as having any title to his share.

(13.) Any person becoming entitled to a share in consequence of the death, bankruptcy or insolvency of any member, or in consequence of the marriage of any female member, may be registered as a member upon such evidence being produced as may from time to time be required by the Company.

(14.) Any person who has become entitled to a share in consequence of the death, bankruptcy or insolvency of any member, or in consequence of the marriage of any female member, may, instead of being registered himself, elect to have some person to be named by him registered as a transferee of such share.

(15.) The person so becoming entitled shall testify such election by executing to his nominee an instrument of transfer of such share.

(16.) The

(16.) The instrument of transfer shall be presented to the Company, together with such evidence as the Directors may require to prove the title of the transferee, and thereupon the Company shall register the transferee as a member.

Forfeiture of Shares.

(17.) If any member fails to pay any call on the day appointed for payment thereof, the Directors may, at any time thereafter, during such time as the call remains unpaid, serve a notice on him requiring him to pay such call, together with interest and any expenses that may have accrued by reason of such non-payment.

(18.) The notice shall name a further day on or before which such call and all interest and expenses that have accrued by reason of such non-payment are to be paid. It shall also name the place where payment is to be made, the place so named being either the registered Office of the Company or some other place at which calls of the Company are usually made payable. The notice shall also state that in the event of non-payment at or before the time and at the place appointed, the shares in respect of which such call was made will be liable to be forfeited.

(19.) If the requisitions of any such notice as aforesaid are not complied with, any share in respect of which such notice has been given may at any time thereafter before payment of all calls, interest and expenses due in respect thereof has been made, be forfeited by a Resolution of the Directors to that effect.

(20.) Any share so forfeited shall be deemed to be the property of the Company, and may be disposed of in such manner as the Company in General Meeting thinks fit.

(21.) Any member whose shares have been forfeited shall notwithstanding be liable to pay to the Company all calls owing upon such shares at the time of the forfeiture.

(22.) A solemn declaration in writing, made before a Magistrate, that the call in respect of a share was made and notice thereof given, and that default in payment of the call was made, and that the forfeiture of the share was made by a Resolution of the Directors to that effect, shall be sufficient evidence of the facts therein stated, as against all persons entitled to such share, and such declaration

ration and the receipt of the Company for the price of such share shall constitute a good title to such share, and a certificate of proprietorship shall be delivered to a purchaser, and thereupon he shall be deemed the holder of such share discharged from all calls due prior to such purchase, and he shall not be bound to see to the application of the purchase-money, nor shall his title to such share be affected by any irregularity in the proceedings in reference to such sale.

Conversion of Shares into Stock.

(23.) The Directors may, with the sanction of the Company previously given in General Meeting, convert any paid-up shares into stock.

(24.) When any shares have been converted into stock, the several holders of such stock may thenceforth transfer their respective interests therein or any part of such interests, in the same manner and subject to the same regulations as and subject to which any shares in the capital of the Company may be transferred, or as near thereto as circumstances admit.

(25.) The several holders of stock shall be entitled to participate in the dividends and profits of the Company according to the amount of their respective interests in such stock, and such interests shall, in proportion to the amount thereof, confer on the holders thereof respectively, the same privileges and advantages for the purpose of voting at meetings of the Company and for other purposes, as would have been conferred by shares of equal amount in the capital of the Company; but so that none of such privileges or advantages, except the participation in the dividends and profits of the Company, shall be conferred by any such aliquot part of consolidated stock as would not, if existing in shares, have conferred such privileges or advantages.

Increase in Capital.

(26.) The Directors may, with the sanction of a Special Resolution of the Company previously given in General Meeting, increase its capital by the issue of new shares, such aggregate increase to be of such amount, and to be divided into shares of such respective amounts, as the Company in General Meeting directs, or, if no direction is given, as the Directors think expedient.

(27.) Subject to any direction to the contrary that may be given by the meeting that sanctions the increase of capital, all new shares shall be offered to the members in proportion to the existing shares held by them, and such offer shall be made by notice specifying the number of shares to which the member is

is entitled, and limiting a time within which the offer, if not accepted, will be deemed to be declined; and after the expiration of such time, or on the receipt of an intimation from the member to whom such notice is given that he declines to accept the shares offered, the Directors may dispose of the same in such manner as they think most beneficial to the Company.

(28.) Any capital raised by the creation of new shares shall be considered as part of the original capital, and shall be subject to the same provisions with reference to the payment of calls, and the forfeiture of shares on non-payment of calls, or otherwise, as if it had been part of the original capital.

General Meetings.

(29.) The first General Meeting shall be held at such time, not being more than six months after the registration of the Company, and at such place, as the Directors may determine.

(30.) Subsequent General Meetings shall be held at such time and place as may be prescribed by the Company in General Meeting; and if no other time or place is prescribed, a General Meeting shall be held on the first Monday in February in every year, at such place as may be determined by the Directors.

(31.) The above-mentioned General Meetings shall be called Ordinary Meetings; all other General Meetings shall be called Extraordinary.

(32.) The Directors may, whenever they think fit, and they shall upon a requisition made in writing by not less than one-fifth in number of the members of the Company, convene an Extraordinary General Meeting.

(33.) Any requisition made by the members shall express the object of the meeting proposed to be called, and shall be left at the registered Office of the Company.

(34.) Upon the receipt of such requisition the Directors shall forthwith proceed to convene an Extraordinary General Meeting. If they do not proceed to convene the same within twenty-one days from the date of the requisition, the requisitionists or any other members amounting to the required number, may themselves convene an Extraordinary General Meeting.

Proceedings at General Meetings.

(35.) Seven days' notice at the least, specifying the place, the day and the hour of meeting, and in case of special business the general nature of such business

business, shall be given to the members in manner hereinafter mentioned, or in such other manner, if any, as may be prescribed by the Company in General Meeting; but the non-receipt of such notice by any member shall not invalidate the proceedings at any General Meeting.

(36.) All business shall be deemed special that is transacted at an Extraordinary Meeting, and all that is transacted at an Ordinary Meeting, with the exception of sanctioning a dividend, and the consideration of the accounts, balance-sheets and the ordinary report of the Directors.

(37.) No business shall be transacted at any General Meeting, except the declaration of a dividend, unless a quorum of members is present at the time when the meeting proceeds to business. Such quorum shall be ascertained as follows: that is to say, if the persons who have taken shares in the Company at the time of the meeting do not exceed ten in number, the quorum shall be five; if they exceed ten, there shall be added to the above quorum one for every five additional members up to fifty, and one for every ten additional members after fifty, with this limitation, that no quorum shall in any case exceed twenty.

(38.) If within one hour from the time appointed for the meeting a quorum is not present, the meeting, if convened upon the requisition of members, shall be dissolved. In any other case it shall stand adjourned to the same day in the next week, at the same time and place; and if at such adjourned meeting a quorum is not present, it shall be adjourned *sine die*.

(39.) The Chairman (if any) of the Board of Directors shall preside as Chairman at every General Meeting of the Company.

(40.) If there is no such Chairman, or if at any meeting he is not present within fifteen minutes after the time appointed for holding the meeting, the members present shall choose some one of their number to be Chairman.

(41.) The Chairman may, with the consent of the meeting, adjourn any meeting from time to time and from place to place; but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

(42.) At any General Meeting, unless a poll is demanded by at least five members, a declaration by the Chairman that a Resolution has been carried, and an entry to that effect in the book of proceedings of the Company, shall be suffi-

cient

cient evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against such Resolution.

(43.) If a poll is demanded by five or more members, it shall be taken in such manner as the Chairman directs, and the result of such poll shall be deemed to be the Resolution of the Company in General Meeting. In the case of an equality of votes at any General Meeting the Chairman shall be entitled to a second or casting vote.

Votes of Members.

(44.) Every member shall have one vote for every share up to ten. He shall have an additional vote for every five shares beyond the first ten shares up to one hundred, and an additional vote for every ten shares beyond the first hundred shares.

(45.) If any member is a lunatic or idiot, he may vote by his Committee or other legal Curator; and if any member is a minor, he may vote by his guardian or any one of his guardians if more than one.

(46.) If one or more persons are jointly entitled to a share or shares, the member whose name stands first in the Register of Members as one of the holders of such share or shares, and no other, shall be entitled to vote in respect of the same.

(47.) No member shall be entitled to vote at any General Meeting unless all calls due from him have been paid, and no member shall be entitled to vote in respect of any share that he has acquired by transfer, at any meeting held after the expiration of three months from the registration of the Company, unless he has been possessed of the share in respect of which he claims to vote for at least three months previously to the time of holding the meeting at which he proposes to vote.

(48.) Votes may be given either personally or by proxy.

(49.) The instrument appointing a proxy shall be in writing, under the hand of the appointor, or if such appointor is a Corporation, under their common seal, and shall be attested by one or more witness or witnesses. No person shall be appointed a proxy who is not a member of the Company.

(50.) The instrument appointing a proxy shall be deposited at the registered Office of the Company not less than seventy-two hours before the time for holding

holding the meeting at which the person named in such instrument proposes to vote ; but no instrument appointing a proxy shall be valid after the expiration of twelve months from the date of its execution.

(51.) Any instrument appointing a proxy shall be in the following form :—

Company Limited.

I of
being a member of the Company Limited, and entitled to vote or votes, hereby appoint of as my proxy, to vote for me and on my behalf at the (Ordinary *or* Extraordinary, *as the case may be*) General Meeting of the Company to be held on the day of , and at any adjournment thereof (*or*, at any meeting of the Company that may be held in the year). As witness my hand, this day of

Signed by the said in the presence of

Directors.

(52.) The number of the Directors, and the names of the first Directors, shall be determined by the subscribers of the memorandum of association.

(53.) Until Directors are appointed, the subscribers of the memorandum of association shall be deemed to be Directors.

(54.) The future remuneration of the Directors, and their remuneration for services performed previously to the first General Meeting, shall be determined by the Company in General Meeting.

Powers of Directors.

(55.) The business of the Company shall be managed by the Directors, who may pay all expenses incurred in getting up and registering the Company, and may exercise all such powers of the Company as are not by the foregoing Act, or by these Articles, required to be exercised by the Company in General Meeting, subject nevertheless to any regulations of these Articles, to the provisions of the foregoing Act, and to such regulations, being not inconsistent with the aforesaid regulations or provisions, as may be prescribed by the Company in General Meeting ; but no regulation made by the Company in General Meeting shall invalidate any prior act of the Directors which would have been valid if such regulation had not been made.

(56.) The

(56.) The continuing Directors may act notwithstanding any vacancy in their body.

Disqualification of Directors.

(57.) The office of Director shall be vacated—

If he holds any other office or place of profit under the Company;

If he becomes bankrupt or insolvent;

If he is concerned in or participates in the profits of any contract with the Company;

But the above rules shall be subject to the following exceptions: That no Director shall vacate his office by reason of his being a member of any Company which has entered into contracts with or done any work for the Company of which he is Director; nevertheless he shall not vote in respect of such contract or work; and if he does so vote his vote shall not be counted.

Rotation of Directors.

(58.) At the first Ordinary Meeting after the registration of the Company, the whole of the Directors shall retire from office; and at the first Ordinary Meeting in every subsequent year, one-third of the Directors for the time being, or, if their number is not a multiple of three, then the number nearest to one-third, shall retire from office.

(59.) The one-third or other nearest number to retire during the first and second years ensuing the first Ordinary Meeting of the Company shall, unless the Directors agree among themselves, be determined by ballot. In every subsequent year, the one-third or other nearest number who have been longest in office shall retire.

(60.) A retiring Director shall be re-eligible.

(61.) The Company at the General Meeting at which any Directors retire in manner aforesaid shall fill up the vacated offices by electing a like number of persons.

(62.) If at any meeting at which an election of Directors ought to take place the places of the vacating Directors are not filled up, the meeting shall stand adjourned till the same day in the next week, at the same time and place; and if at such adjourned meeting the places of the vacating Directors are not filled

filled up, the vacating Directors, or such of them as have not had their places filled up, shall continue in office until the Ordinary Meeting in the next year, and so on from time to time until their places are filled up.

(63.) The Company may from time to time, in General Meeting, increase or reduce the number of Directors, and may also determine in what rotation such increased or reduced number is to go out of office.

(64.) Any casual vacancy occurring in the Board of Directors may be filled up by the Directors, but any person so chosen shall retain his office so long only as the vacating Director would have retained the same if no vacancy had occurred.

(65.) The Company in General Meeting may, by a Special Resolution, remove any Director before the expiration of his period of office, and may by an Ordinary Resolution appoint another person in his stead. The person so appointed shall hold office during such time only as the Director in whose place he is appointed would have held the same if he had not been removed.

Proceedings of Directors.

(66.) The Directors may meet together for the despatch of business, adjourn and otherwise regulate their meetings as they think fit, and determine the quorum necessary for the transaction of business. Questions arising at any meeting shall be decided by a majority of votes. In case of an equality of votes, the Chairman shall have a second or casting vote. A Director may at any time summon a meeting of the Directors.

(67.) The Directors may elect a Chairman of their meetings, and determine the period for which he is to hold office; but if no such Chairman is elected, or if at any meeting the Chairman is not present at the time appointed for holding the same, the Directors present shall choose some one of their number to be Chairman of such meeting.

(68.) The Directors may delegate any of their powers to Committees consisting of such member or members of their body as they think fit. Any Committee so formed shall, in the exercise of the powers so delegated, conform to any regulations that may be imposed on it by the Directors.

(69.) A Committee may elect a Chairman of its meetings. If no such Chairman is elected, or if he is not present at the time appointed for holding the same,

the same, the members present shall choose one of their number to be Chairman of such meeting.

(70.) A Committee may meet and adjourn as it thinks proper. Questions arising at any meeting shall be determined by a majority of votes of the members present; and in case of an equality of votes the Chairman shall have a second or casting vote.

(71.) All acts done by any meeting of the Directors, or of a Committee of Directors, or by any person acting as a Director, shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such Directors or persons acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a Director.

Dividends.

(72.) The Directors may, with the sanction of the Company in General Meeting, declare a dividend to be paid to the members in proportion to their shares.

(73.) No dividend shall be payable except out of the profits arising from the business of the Company.

(74.) The Directors may, before recommending any dividend, set aside out of the profits of the Company such sum as they think proper as a reserved fund to meet contingencies, or for equalizing dividends, or for repairing or maintaining the works connected with the business of the Company or any part thereof; and the Directors may invest the sum so set apart as a reserved fund upon such securities as they may select.

(75.) The Directors may deduct from the dividends payable to any member all such sums of money as may be due from him to the Company on account of calls or otherwise.

(76.) Notice of any dividend that may have been declared shall be given to each member in manner hereinafter mentioned; and all dividends unclaimed for three years after having been declared, may be forfeited by the Directors for the benefit of the Company.

(77.) No dividend shall bear interest as against the Company.

Accounts.

Accounts.

(78.) The Directors shall cause true accounts to be kept,

Of the stock in trade of the Company;

Of the sums of money received and expended by the Company, and the matters in respect of which such receipt and expenditure take place; and

Of the credits and liabilities of the Company.

The books of account shall be kept at the registered Office of the Company, and subject to any reasonable restrictions as to the time and manner of inspecting the same that may be imposed by the Company in General Meeting, shall be open to the inspection of the members during the hours of business.

(79.) Once at the least in every year the Directors shall lay before the Company in General Meeting a statement of the income and expenditure for the past year, made up to a date not more than three months before such meeting.

(80.) The statement so made shall show, arranged under the most convenient heads, the amount of gross income, distinguishing the several sources from which it has been derived, and the amount of gross expenditure, distinguishing the expense of the establishment, salaries and other like matters. Every item of expenditure fairly chargeable against the year's income shall be brought into account, so that a just balance of profit and loss may be laid before the meeting; and in cases where any item of expenditure which may in fairness be distributed over several years has been incurred in any one year, the whole amount of such item shall be stated, with the addition of the reasons why only a portion of such expenditure is charged against the income of the year.

(81.) A balance-sheet shall be made out in every year and laid before the Company in General Meeting, and such balance-sheet shall contain a summary of the property and liabilities of the Company arranged under the heads appearing in the form annexed to this Table, or as near thereto as circumstances admit.

(82.) A printed copy of such balance-sheet shall, seven days previously to such meeting, be served on every member in the manner in which notices are hereinafter directed to be served.

Audit.

Audit.

(83.) Once at the least in every year the accounts of the Company shall be examined, and the correctness of the balance-sheet ascertained by one or more auditor or auditors.

(84.) The first auditors shall be appointed by the Directors; subsequent auditors shall be appointed by the Company in General Meeting.

(85.) If one auditor only is appointed, all the provisions herein contained relating to auditors shall apply to him.

(86.) The auditors may be members of the Company; but no person is eligible as an auditor who is interested otherwise than as a member in any transaction of the Company; and no Director or other Officer of the Company is eligible during his continuance in office.

(87.) The election of auditors shall be made by the Company at their Ordinary Meeting in each year.

(88.) The remuneration of the first auditors shall be fixed by the Directors, that of subsequent auditors shall be fixed by the Company in General Meeting.

(89.) Any auditor shall be re-eligible on his quitting office.

(90.) If any casual vacancy occurs in the office of any auditor appointed by the Company, the Directors shall forthwith call an Extraordinary General Meeting for the purpose of supplying the same.

(91.) If no election of auditors is made in manner aforesaid, the Local Government may, on the application of not less than five members of the Company, appoint an auditor for the current year, and fix the remuneration to be paid to him by the Company for his services.

(92.) Every auditor shall be supplied with a copy of the balance-sheet, and it shall be his duty to examine the same with the accounts and vouchers relating thereto.

(93.) Every auditor shall have a list delivered to him of all books kept by the Company, and shall at all reasonable times have access to the books and accounts of the Company. He may, at the expense of the Company, employ accountants or other persons to assist him in investigating such accounts, and he may

he may in relation to such accounts examine the Directors or any other Officer of the Company.

(94.) The auditors shall make a report to the members upon the balance-sheet and accounts, and in every such report they shall state whether, in their opinion, the balance-sheet is a full and fair balance-sheet, containing the particulars required by these regulations, and properly drawn up so as to exhibit a true and correct view of the state of the Company's affairs; and in case they have called for explanations or information from the Directors, whether such explanations or information have or has been given by the Directors, and whether they or it have or has been satisfactory. Such report shall be read, together with the report of the Directors, at the Ordinary Meeting.

Notices.

(95.) A notice may be served by the Company upon any member either personally or by sending it through the Post in a letter addressed to such member at his registered place of abode.

(96.) All notices directed to be given to the members shall, with respect to any share to which persons are jointly entitled, be given to whichever of such persons is named first in the Register of Members; and notice so given shall be sufficient notice to all the holders of such share.

(97.) Any notice, if served by Post, shall be deemed to have been served at the time when the letter containing the same would be delivered in the ordinary course of the Post; and in proving such service it shall be sufficient to prove that the letter containing the notice was properly addressed and put into the Post Office.

Dr. *Balance-sheet (a) of the* *Company made up to* 18 Cr.

		Capital and Liabilities.	Rs.	As.
I. Capital.		Showing:		
	1	The number of shares		
	2	The amount paid per share		
	3	If any arrears of calls, the nature of the arrear, and the names of the defaulters ...		
	4	The particulars of any forfeited shares ...		
II. Debts and Liabilities of the Company.		Showing:		
	5	The amount of loans on mortgages or debenture bonds		
	6	The amount of debts owing by the Company. Distinguishing—		
		(a) Debts for which acceptances have been given		
		(b) Debts to tradesmen for supplies of stock in trade or other articles ..		
		(c) Debts for law expenses		
		(d) Debts for interest on debentures or other loans		
		(e) Unclaimed dividends		
		(f) Debts not enumerated above		
VI. Reserve Fund.		Showing:		
		The amount set aside from profits to meet contingencies		
VII. Profit and Loss.		Showing:		
		The disposable balance for payment of dividends, &c.		
Contingent Liabilities.		Claims against the Company not acknowledged as debts		
		Monies for which the Company is contingently liable		

		Property and Assets.	Rs.	As.
III. Property held by the Company.		Showing:		
	7	Immoveable property. Distinguishing—		
		(a) Freehold land		
		(b) " Buildings		
		(c) Leasehold "		
	8	Moveable property. Distinguishing—		
		(d) Stock in Trade		
		(e) Plant		
		The cost to be stated with deductions for deterioration in value as charged to the reserve fund or profit and loss		
IV. Debts owing to the Company.		Showing:		
	9	Debts considered good for which the Company hold bills or other securities		
	10	Debts considered good for which the Company hold no security		
	11	Debts considered doubtful and bad.		
		Any debt due from a Director or other Officer of the Company to be separately stated.		
V. Cash and Investments.		Showing:		
	12	The nature of investment and rate of interest		
	13	The amount of cash, where lodged, and if bearing interest		

(a) See Clauses 81 and 82 of the foregoing Table A

TABLE B.

TABLE OF FEES to be paid to the Registrar of Joint Stock Companies by a Company having a capital divided into shares.

	Rs.	A.	P.
For registration of a Company whose nominal capital does not exceed Rs. 20,000, a fee of	40	0	0
For registration of a Company whose nominal capital exceeds Rs. 20,000 the above fee of forty rupees, with the following additional fees regulated according to the amount of nominal capital; (that is to say)—			
For every 10,000 rupees of nominal capital, or part of 10,000 rupees after the first 20,000 rupees up to 50,000 rupees ...	20	0	0
For every 10,000 rupees of nominal capital, or part of 10,000 rupees after the first 50,000 rupees up to 1,000,000 rupees ...	5	0	0
For every 10,000 rupees of nominal capital, or part of 10,000 rupees after the first 1,000,000 rupees	1	0	0
For registration of any increase of capital made after the first registration of the Company, the same fees per 10,000 rupees or part of 10,000 rupees as would have been payable if such increased capital had formed part of the original capital at the time of registration.			
Provided that no Company shall be liable to pay in respect of nominal capital on registration, or afterwards, any greater amount of fees than 1,000 rupees, taking into account in the case of fees payable on an increase of capital after registration the fees paid on registration.			
For registration of any existing Company, except such Companies as are by this Act exempted from payment of fees in respect of registration under this Act, the same fee as is charged for registering a new Company.			
For registering any document hereby required or authorized to be registered, other than the memorandum of association ...	5	0	0
For making a record of any fact hereby authorized or required to be recorded by the Registrar of Companies, a fee of ..	5	0	0

TABLE C.

TABLE OF FEES to be paid to the Registrar of Joint Stock Companies by a Company not having a capital divided into shares.

	Rs.	A.	P.
For registration of a Company whose number of members, as stated in the Articles of Association, does not exceed 20 ...	40	0	0
For registration of a Company whose number of members, as stated in the Articles of Association, exceeds 20, but does not exceed 100	100	0	0
For registration of a Company whose number of members, as stated in the Articles of Association, exceeds 100, but is not stated to be unlimited, the above fee of Rs. 100 with an additional Rs. 5 for every 50 members or less number than 50 members after the first 100.			
For registration of a Company in which the number of members is stated in the Articles of Association to be unlimited, a fee of	400	0	0
For registration of any increase on the number of members made after the registration of the Company, in respect of every 50 members, or less than 50 members, of such increase	5	0	0
Provided that no one Company shall be liable to pay on the whole a greater fee than Rs. 400 in respect of its number of members, taking into account the fee paid on the first registration of the Company.			
For registration of any existing Company, except such Companies as are by this Act exempted from payment of fees in respect of registration under this Act, the same fee as is charged for registering a new Company.			
For registering any document hereby required or authorized to be registered, other than the memorandum of association ...	5	0	0
For making a record of any fact hereby authorized or required to be recorded by the Registrar of Companies, a fee of ...	5	0	0

FORM D.

FORM OF STATEMENT REFERRED TO IN PART III OF THE ACT.

The Capital of the Company is Rs. , divided into shares of each.

The number of shares issued is . Calls to the amount of Rs. per share have been made, under which the sum of Rs. has been received.

The liabilities of the Company on the first day of January (or July) were :—

Debts owing to sundry persons by the Company:

Under decree, Rs.

On specialty, Rs.

On Notes or Bills, Rs.

On Simple Contracts, Rs.

On estimated Liabilities, Rs.

The Assets of the Company on that day were :—

Government Securities [stating them], Rs.

Bills of Exchange and Promissory Notes, Rs.

Cash at the Bankers, Rs.

Other Securities, Rs.

SECOND SCHEDULE.

FORM A.

Memorandum of association of a Company limited by shares.

1*st*.—The name of the Company is "The Company, Limited."

2*nd*.—The registered Office of the Company will be situate in

3*rd*.—The objects for which the Company is established are, "* and the doing all such other things as are incidental or conducive to the attainment of the above object."

4*th*.—The liability of the members is limited.

5*th*:—The capital of the Company is Rs. divided into shares of Rs. each.

* If the Company has no capital divided into shares, the portion of the statement relating to capital and shares must be omitted.

We,

We, the several persons whose names and addresses are subscribed, are desirous of being formed into a Company in pursuance of this memorandum of association, and we respectively agree to take the number of shares in the capital of the Company set opposite our respective names:—

Names, Addresses, and Descriptions of Subscribers.	Number of shares taken by each subscriber.
1. A. B. of ...	
2. C. D. „ ...	
3. E. F. „ ...	
4. G. H. „ ...	
5. I. J. „ ...	
6. K. L. „ ...	
7. M. N. „ ...	
Total shares taken ...	

Dated the *day of*

Witness to the above signatures.

O. P. of

FORM B.

Memorandum and Articles of Association of a Company limited by guarantee, and not having a capital divided into shares.

Memorandum of Association.

1*st.*—The name of the Company is "The Mutual Calcutta Marine Association, Limited."

2*nd.*—The registered Office of the Company will be situate in Calcutta.

3*rd.*—The objects for which the Company is established are "the Mutual Insurance of ships belonging to members of the Company, and the doing all such other things as are incidental or conducive to the attainment of the above objects."

4*th.*—Every member of the Company undertakes to contribute to the assets of the Company, in the event of the same being wound up during the time

time that he is a member or within one year afterwards, for payment of the debts and liabilities of the Company contracted before the time at which he ceases to be a member, and the costs, charges and expenses of winding-up the same, and for the adjustment of the rights of the contributories amongst themselves, such amount as may be required not exceeding Rs. 100.

We, the several persons whose names and addresses are subscribed, are desirous of being formed into a Company in pursuance of this memorandum of association.

Names, Addresses, and Descriptions of Subscribers.

1. A. B. of
2. C. D. of
3. E. F. of
4. G. H. of
5. I. J. of
6. K. L. of
7. M. N. of

Dated the *day of*

Witness to the above signatures.

O. P. of

Articles of Association to accompany preceding Memorandum of Association.

(1.) The Company, for the purpose of registration, is declared to consist of five hundred members.

(2.) The Directors hereinafter mentioned may, whenever the business of the association requires it, register an increase of members.

Definition of Members.

(3.) Every person shall be deemed to have agreed to become a member of the Company who insures any ship or share in a ship in pursuance of the regulations hereinafter contained.

General Meetings.

(4.) The first General Meeting shall be held at such time not being more than three months after the incorporation of the Company, and at such place as the Directors may determine.

(5.) Subsequent

(5.) Subsequent General Meetings shall be held at such time and place as may be prescribed by the Company in General Meeting; and if no other time or place is prescribed, a General Meeting shall be held on the first Monday in February in every year at such place as may be determined by the Directors.

(6.) The above-mentioned General Meetings shall be called Ordinary Meetings; all other General Meetings shall be called Extraordinary.

(7.) The Directors may whenever they think fit, and they shall upon a requisition made in writing by any five or more members, convene an Extraordinary General Meeting.

(8.) Any requisition made by the members shall express the object of the meeting proposed to be called, and shall be left at the registered Office of the Company.

(9.) Upon the receipt of such requisition, the Directors shall forthwith proceed to convene a General Meeting. If they do not proceed to convene the same within twenty-one days from the date of the requisition, the requisitionists or any other five members may themselves convene a meeting.

Proceedings at General Meetings.

(10.) Seven days' notice at the least, specifying the place, the day and the hour of meeting, and in case of special business, the general nature of such business, shall be given to the members in manner hereinafter mentioned, or in such other manner, if any, as may be prescribed by the Company in General Meeting; but the non-receipt of such notice by any member shall not invalidate the proceedings at any General Meeting.

(11.) All business shall be deemed special that is transacted at an Extraordinary Meeting, and all that is transacted at an Ordinary Meeting, with the exception of the consideration of the accounts, balance-sheets and the ordinary report of the Directors.

(12.) No business shall be transacted at any meeting except the declaration of a dividend, unless a quorum of members is present at the commencement of such business. Such quorum shall be ascertained as follows: that is to say, if the members of the Company at the time of the meeting do not exceed ten in number, the quorum shall be five; if they exceed ten, there shall be added to the above quorum one for every five additional members up to fifty,

fifty, and one for every ten additional members after fifty, with this limitation, that no quorum shall in any case exceed thirty.

(13.) If within one hour from the time appointed for the meeting, a quorum of members is not present, the meeting if convened upon the requisition of the members, shall be dissolved. In any other case it shall stand adjourned to the same day in the following week, at the same time and place; and if at such adjourned meeting a quorum of members is not present, it shall be adjourned *sine die*.

(14.) The Chairman (if any) of the Directors shall preside as Chairman at every General Meeting of the Company.

(15.) If there is no such Chairman, or if at any meeting he is not present at the time of holding the same, the members present shall choose some one of their number to be Chairman of such meeting.

(16.) The Chairman may, with the consent of the meeting, adjourn any meeting from time to time and from place to place; but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

(17.) At any General Meeting, unless a poll is demanded by at least five members, a declaration by the Chairman that a Resolution has been carried, and an entry to that effect in the book of proceedings of the Company, shall be sufficient evidence of the fact, without proof of the number or proportion of the votes recorded in favour or against such Resolution.

(18.) If a poll is demanded in manner aforesaid, the same shall be taken in such manner as the Chairman directs; and the result of such poll shall be deemed to be the Resolution of the Company in General Meeting.

Votes of Members.

(19.) Every member shall have one vote and no more.

(20.) If any member is a lunatic or idiot, he may vote by his Committee or other legal Curator: if any member is a minor he may vote by his guardian or any one of his guardians if more than one.

(21.) No member shall be entitled to vote at any meeting unless all monies due from him to the Company have been paid.

(22.) Votes

(22.) Votes may be given either personally or by proxies. A proxy shall be appointed in writing under the hand of the appointor, or if such appointor is a Corporation, under its common seal.

(23.) No person shall be appointed a proxy who is not a member, and the instrument appointing him shall be deposited at the registered Office of the Company not less than forty-eight hours before the time of holding the meeting at which he proposes to vote.

(24.) Any instrument appointing a proxy shall be in the following form:—

COMPANY LIMITED.

I of being a member of the Company Limited, hereby appoint of as my proxy, to vote for me and on my behalf at the [Ordinary *or* Extraordinary, *as the case may be*] General Meeting of the Company to be held on the day of and at any adjournment thereof to be held on the day of next [*or* at any meeting of the Company that may be held in the year].

As witness my hand, this day of

Signed by the said in the presence of

Directors.

(25.) The number of the Directors and the names of the first Directors shall be determined by the subscribers of the memorandum of association.

(26.) Until Directors are appointed, the subscribers of the memorandum of association shall be deemed to be Directors.

Powers of Directors.

(27.) The business of the Company shall be managed by the Directors, who may exercise all such powers of the Company as are not hereby required to be exercised by the Company in General Meeting; but no regulation made by the Company in General Meeting shall invalidate any prior act of the Directors which would have been valid if such regulation had not been made.

Election of Directors.

(28.) The Directors shall be elected annually by the Company in General Meeting.

Business

Business of Company.

(Here insert rules as to mode in which business of insurance is to be conducted).

Accounts.

(29.) The accounts of the Company shall be audited by a Committee of five members, to be called the Audit Committee.

(30.) The first Audit Committee shall be nominated by the Directors out of the body of members.

(31.) Subsequent Audit Committees shall be nominated by the members at the Ordinary General Meeting in each year.

(32.) The Audit Committee shall be supplied with a copy of the balance-sheet, and it shall be their duty to examine the same with the accounts and vouchers relating thereto.

(33.) The Audit Committee shall have a list delivered to them of all books kept by the Company, and they shall at all reasonable times have access to the books and accounts of the Company. They may, at the expense of the Company, employ accountants or other persons to assist them in investigating such accounts, and they may in relation to such accounts examine the Directors or any other Officer of the Company.

(34.) The Audit Committee shall make a report to the members upon the balance-sheet and accounts, and in every such report they shall state whether, in their opinion, the balance-sheet is a full and fair balance-sheet containing the particulars required by these regulations of the Company, and properly drawn up, so as to exhibit a true and correct view of the state of the Company's affairs, and in case they have called for explanations or information from the Directors, whether such explanations or information have been given by the Directors, and whether they have been satisfactory; and such report shall be read together with the report of the Directors at the Ordinary Meeting.

Notices.

(35.) A notice may be served by the Company upon any member, either personally or by sending it through the Post in a letter addressed to such member at his registered place of abode.

(36.) Any

(36.) Any notice, if served by Post, shall be deemed to have been served at the time when the letter containing the same would be delivered in the ordinary course of the Post; and in proving such service, it shall be sufficient to prove that the letter containing the notice was properly addressed and put into the Post Office.

Winding-up.

(37.) The Company shall be wound up voluntarily whenever an Extraordinary Resolution, as defined by The Indian Companies' Act, 1866, is passed, requiring the Company to be wound up voluntarily.

Names, Addresses, and Descriptions of Subscribers.

1.	A. B. of	...	...	...	Merchant.
2.	C. D. of	...	...	...	,,
3.	E. F. of	...	...	...	,,
4.	G. H. of	...	...	...	,,
5.	I. J. of	...	...	...	,,
6.	K. L. of	...	...	...	,,
7.	M. N. of	...	...	...	,,

Dated the day of 18

Witness to the above signatures.

O. P. of

FORM C.

Memorandum and Articles of Association of a Company limited by guarantee, and having a capital divided into shares.

Memorandum of Association.

1*st.*—The name of the Company is "The Hotel Company, Limited."

2*nd.*—The registered Office of the Company will be situate in

3*rd.*—The objects for which the Company is established are "the facilitating travelling in by providing hotels and conveyances by sea and by land for the accommodation of travellers, and the doing all such other things as are incidental or conducive to the attainment of the above object."

4*th.*—Every

4th.—Every member of the Company undertakes to contribute to the assets of the Company, in the event of the same being wound up during the time that he is a member or within one year afterwards, for payment of the debts and liabilities of the Company contracted before the time at which he ceases to be a member, and the costs, charges and expenses of winding-up the same, and for the adjustment of the rights of the contributories amongst themselves, such amount as may be required not exceeding Rs. 200.

We, the several persons whose names and addresses are subscribed, are desirous of being formed into a Company in pursuance of this memorandum of association.

Names, Addresses, and Descriptions of Subscribers.

1. A. B. of
2. C. D. of
3. E F. of
4. G. H. of
5. I. J. of
6. K. L. of
7. M. N. of

Dated the day of 18

Witness to the above signatures.

O. P of

Articles of Association to accompany preceding Memorandum of Association.

1. The capital of the Company shall consist of five lakhs of rupees divided into five thousand shares of one hundred rupees each.

2. The Directors may, with the sanction of the Company in General Meeting, reduce the amount of shares.

3. The Directors may, with the sanction of the Company in General Meeting, cancel any shares belonging to the Company.

4. All the Articles of Table A shall be deemed to be incorporated with these Articles, and to apply to the Company.

We,

We, the several persons whose names and addresses are subscribed, agree to take the number of shares in the capital of the Company set opposite our respective names.

Names, Addresses, and Descriptions of Subscribers.	Number of shares taken by each Subscriber
1. A. B. of	
2. C. D. of	
3. E. F. of	
4. G. H. of	
5. I. J. of	
6. K. L. of	
7. M. N. of	

Total shares taken

Dated the day of 186

Witness to the above signatures.

O. P. of

Memorandum and Articles of Association of an Unlimited Company having a capital divided into shares.

Memorandum of Association.

1*st.*—The name of the Company is "The Patent Company."

2*nd.*—The registered Office of the Company will be situated in

3*rd.*—The objects for which the Company is established are "the working of a patent method of , of which method O. P. of is the sole patentee."

We, the several persons whose names are subscribed, are desirous of being formed into a Company in pursuance of this memorandum of association.

Names

Names, Addresses, and Descriptions of Subscribers.

1. A. B. of
2. C. D. of
3. E. F. of
4. G. H. of
5. I. J. of
6. K. L. of
7. M. N. of

Dated the *day of* 186

Witness to the above signatures.

Q. R. of

Articles of Association to accompany the preceding memorandum of association.

Capital of the Company.

The capital of the Company is twenty thousand rupees divided into twenty shares of one thousand rupees each.

Application of Table A.

All the Articles of Table A shall be deemed to be incorporated with these Articles, and to apply to the Company.

We, the several persons whose names and addresses are subscribed, agree to take the number of shares in the capital of the Company set opposite our respective names.

Names, Addresses, and Descriptions of Subscribers.	Number of shares taken by Subscribers.
1. A. B. of	
2. C. D. of	
3. E. F. of	
4. G. H. of	
5. I. J. of	
6. K. L. of	
7. M.N. of	

Total shares taken

Dated the *day of* 186

Witness to the above signatures.

Q. R. of

FORM E. As required by the Second Part of the Act.

Summary of Capital and Shares of the Company made up to the day of

Nominal Capital Rs , divided into shares of Rs. each.

Number of Shares taken up to the day of

There has been called up on each Share Rs.

Total amount of calls received Rs.

Total amount of calls unpaid Rs

List of persons holding shares in the Company on the day of and of persons who have held Shares therein at any time during the year immediately preceding the said day of showing their names and addresses and an account of the Shares so held.

Folio in Register Ledger containing particulars.	Names, Addresses, and Occupations.				Account of Shares.						
	Surna m	Christian Name.	Address.	Occupation	Shares held by existing members on the day of	Additional Shares held by existing members during preceding year.		Shares held by persons no longer members.			Remarks.
						Number.	Date of transfer.	Number.	Date of transfer.		

ACT No. X OF 1866.

THIRD SCHEDULE.

Number and date of Act.		Title of Act.
No. XLIII of 1850	...	An Act for the Regulation of Joint Stock Companies.
No. XIX of 1857	...	An Act for the Incorporation and Regulation of Joint Stock Companies and other Associations, either with or without limited liability of the members thereof.
No. VII of 1860	...	An Act to enable Joint Stock Banking Companies to be formed on the principle of limited liability.

Military Orphan Press —No. 148 L. C.—21-4-66 —2,400

ACT No. XI of 1866.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor-General on the* 12*th March* 1866).

An Act to repeal Act No. IV of 1855 *(for incorporating for a further period, and for giving further powers to the Assam Company).*

Preamble.

WHEREAS the Assam Tea Company is to be incorporated by a local Act of Parliament made and passed in the 28th and 29th years of the reign of Her Majesty, cap. CXXIX, but, under or by virtue of the second Section of the said Act of Parliament, its operation is deferred until the expiration of two months next after the day of the passing by the Governor-General of India in Council of an Act to repeal the Act of the Legislative Council of India, No. IV of 1855 ; and whereas it is expedient to repeal the same Act in order that the said Act of Parliament may be brought into operation ; It is hereby enacted as follows :—

Repeal of Act IV of 1855

1. Act No. IV of 1855 is hereby repealed, except as to the repeal of Act No. XIV of 1854 effected thereby, and except as to contracts made, acts done, and liabilities incurred before the passing of this Act.

For two months the powers, rights, and liabilities of Assam Company not to be affected.

2. For the period of two months next after the day of the passing of this Act, the incorporation, powers, rights and liabilities of the said Company shall continue as if this Act had not been passed.

PRICE ONE ANNA.

Calcutta Central Press Company Limited

ACT No. XII of 1866.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor-General on the* 23*rd March* 1866).

An Act to provide for the compulsory taking of rights to form and maintain private water-courses from public works of irrigation.

Preamble.

WHEREAS it is expedient to provide for the compulsory taking of rights to form and maintain private water-courses through lands lying between public works of irrigation and the lands, mills, sewers, reservoirs or buildings of persons desiring water from such works for the purposes of irrigating, working or cleansing such lands, mills or sewers, or for bathing, drinking, manufacturing or other useful purposes; It is enacted as follows:—

Interpretation Clause. Number. "Section." "Local Government." "Collector." "Canal Officer."

1. In this Act, words in the singular include the plural, and words in the plural include the singular; "Section" means a Section of this Act; and in every place in which this Act operates, "Local Government" means the person authorized by law to administer Executive Government in such place and includes a Chief Commissioner: "Collector" includes any Officer authorized to exercise the duties of a Collector of the land revenue of such place; and "Canal Officer" means the chief Officer invested by the Local Government with the immediate control of the District defined by the Local Government for the purposes of irrigation in which such place shall be situate.

Application to Canal Officer.

2. Whenever any person shall require the right to form and maintain, for any of the purposes aforesaid, a private water-course through the lands (hereinafter called the intervening lands) lying between a public work of irrigation and his own lands, mills, sewers, reservoirs or buildings, he shall apply in writing under his hand to the Canal Officer, stating

(1) The particulars of the right so required:

(2) That

PRICE THREE ANNAS.

(2) That the applicant is willing to pay a reasonable sum for the purchase, rent or revenue thereof, to defray the expense of the survey, memoranda and plans required by this Act, to make reasonable compensation for any injury that may be caused to the intervening lands and to the crops thereon by the formation of the proposed water-course, and to construct and maintain such works connected therewith as may be necessary; and

(3) That he has endeavoured unsuccessfully to enter into an agreement with the owners, tenants and occupiers of the intervening lands as to the amount of the purchase-money or rent and compensation aforesaid.

Stamp.

Such application shall bear a stamp of eight annas.

Canal Officer to make local enquiry,

And either to reject application,

Or to cause survey, memorandum and plan to be made.

3. On receiving such application, the Canal Officer shall visit the intervening lands and make enquiry as to the expediency of forming the proposed water-course. If he is not satisfied of such expediency, he shall reject the application. But if he is satisfied of such expediency, he shall cause to be made at the applicant's expense a survey of the intervening lands and a memorandum and plan showing the direction, length, width and depth of the proposed water-course; the bridges, aqueducts, drains or other works (if any) to be made in connection therewith, and the amount of land required therefor. Such memorandum shall also state that, in the opinion of the Canal Officer, the formation of the proposed water-course will be a benefit to the applicant, and will cause no disproportionate injury to the intervening lands, and it shall be subscribed by the Canal Officer and recorded in his Office.

Memorandum to be subscribed and recorded by Canal Officer.

Plan and copy of memorandum forwarded to Collector, and copy of memorandum furnished by him to Lumberdars.

4. The Canal Officer shall forward the said plan together with a copy under his hand of such memorandum to the Collector, who shall furnish a copy under his hand of the memorandum to the Lumberdar or Sudder Malguzar of every village through which the proposed water-course is to pass.

Proclamation of contents of memorandum.

5. The Collector shall also cause the contents of the said memorandum to be proclaimed in every such village in the local vernacular language, and shall at the same time cause notice to be published in the same language in every such village that any person

person interested in the lands to be traversed by the proposed water-course, and objecting to its formation, shall be at liberty to apply to him within fifteen days from the date of such proclamation.

Petition to Collector against water-course.

6. Any such person may within the time hereinbefore limited present a petition to the Collector, stamped with a stamp of the value of eight annas and setting forth his objections to the formation of the proposed water-course. The Collector may in his discretion either reject the petition, recording his reasons thereon, or make an enquiry, of which he shall give previous notice to the Canal Officer, as to the validity of the objections, and summon witnesses and require them to produce before him all such documents as he shall think fit. Persons so summoned shall be subject to the law for the time being in force as regards persons summoned before a Collector acting judicially.

Procedure of Collector on receipt of petition.

Memorandum by Collector.

7. If no objection shall have been made under the provisions of Section 6;

Or if the Collector shall think that the objections (if any) to the formation of the proposed water-course are insufficient and that such water-course should be formed;

Or if he shall think that such objections are sufficient, and that it should not be formed;

Or if he shall think that such objections exist, but that they may be obviated by the construction of bridges, aqueducts, drains or other such works, in addition to the works (if any) referred to in Section 3, and that the proposed water-course should be formed, proper provision being made for the construction and maintenance of such additional works (mentioning them),

He shall make, subscribe and record in his Office a memorandum to that effect.

Copy of Collector's memorandum to be sent to Canal Officer.

8. The Collector shall thereupon send the Canal Officer a copy under his hand of such memorandum.

Procedure thereon when Canal Officer and Collector agree that water-course should be formed.

9. If the Canal Officer shall agree with the Collector that the water-course should be formed, and that no additional works connected therewith are needed, he shall proceed according to the provisions in such case contained in Section 14.

10. If

When Canal Officer and Collector agree that the water-course should not be formed.

10. If he shall agree with the Collector that the water-course should not be formed, he shall give notice thereof to the applicant, and all proceedings shall thereupon be stayed.

When Canal Officer and Collector agree that the water-course should be formed, provision being made as to additional works

11. If the Canal Officer shall agree with the Collector that the water-course should be formed, proper provision being made for the construction and maintenance of the additional works mentioned in Section 7, he shall cause to be prepared at the expense of the applicant a memorandum and plan of the same works and shall record such memorandum and plan in his Office and shall forward to the Collector the plan and a copy of the memorandum.

Procedure in case Collector and Canal Officer disagree

12. If the Canal Officer disagree with the Collector's memorandum under Section 7, he shall submit the copy thereof sent to him under Section 8, together with a statement of his own reasons for such disagreement, through the head of his own Department, to the Commissioner of the Division. If the Commissioner agree with the Canal Officer, the Commissioner's decision on the points in dispute shall be final. If the Commissioner disagree with the Canal Officer, the whole case shall be referred to the final decision of the Local Government.

Procedure where Collector is himself Canal Officer

13. Where the Collector is himself the Canal Officer, he shall forward to the Commissioner of the Division all petitions presented under Section 6, who shall then proceed in the same manner, and with the same powers, as if he were a Collector acting under Section 6; and in every such case Sections 7, 8, 9, 10 and 11 shall be read as if for the word "Collector" the words "Commissioner of the Division" were substituted.

Procedure after thirty days from the giving of notice under Section 5

14. At the expiration of thirty days from the giving of the notice mentioned in Section 5, if under the provisions hereinbefore contained it shall have been determined that the proposed water-course is to be formed, the Canal Officer shall enter upon the intervening lands and mark out the limits of the proposed water-course; and thereupon the Collector shall adjust the amount to be given as purchase-money, rent and revenue or any of them for the right and as compensation for the injury respectively mentioned in Section 2. In making such adjustment the Collector shall follow the

Collector to fix compensation.

the procedure and may exercise the powers prescribed for and conferred upon him by Act No. VI of 1857, Sections 4, 5, 6 and 7.

Collector to require applicant to pay purchase-money.

15. The Collector shall then require the applicant to pay such amount (if any) as shall be payable at once, and, if the said Collector shall think fit, to deposit with him such security as he shall deem sufficient for the due payment of the rent and revenue (if any) aforesaid, and for the construction and maintenance of the works (if any) connected with the said water-course. And, on compliance with such requirement, the Collector shall authorize the applicant to take and enjoy the right aforesaid.

On payment, applicant to be authorized to take right.

Applicant may enter with workmen, &c.

16. On receiving such authority from the Collector, it shall be lawful for the applicant, with such workmen, cattle and things as may be necessary, to enter upon the intervening lands and make the proposed water-course within the limits so marked out as aforesaid, and either to remove all or any of the clay, sand, gravel and stones which shall be taken out of the said water-course, or to use all or any parts thereof in making the said water-course and the works connected therewith, and to use such water-course for the purpose of conveying water from the said public works of irrigation in the direction of and into his lands, mills, sewers, reservoirs or buildings, as the case may be, at the place indicated in the plan mentioned in Section 3; and from time to time, with such workmen, cattle and things as aforesaid, to enter upon the said intervening lands and inspect, repair and cleanse the said water-course, and from time to time for the purposes aforesaid to place upon the same lands and to remove such materials, machinery and other things as he shall think fit.

Power to Local Government to make Rules

17. It shall be lawful for the Local Government from time to time to prescribe Rules, consistent with the provisions of this Act, upon all or any of the subjects next hereinafter mentioned; (that is to say) :—

(1.)—The formation of the water-course and the works (if any) connected therewith, in a proper and workmanlike manner :

(2.)—The removal of the clay, sand, gravel and stones excavated in the formation of the water-course, and not used as aforesaid :

(3.)—The time for the completion of the water-course and the works (if any) connected therewith :

(4.)—The

(4.)—The cleansing of the water-course and the maintenance and repair of the water-course and works (if any) connected therewith:

(5.)—The avoidance of unnecessary damage to the surface of the adjoining lands and the crops for the time being thereon and the compensation for such damage (if any):

(6.)—The prevention of injury to the water-course and of interference with the flow of water through the same:

(7.)—The making good of such injury and the restoration of the flow of water:

(8.)—The adjustment of the rights in the water-course of the persons for whose benefit it is formed or to whose benefit it may afterwards be extended:

(9.)—In case the water-course be discontinued, the conditions on which the owner of the intervening lands may enter upon the ground within its limits, and the conditions on which the persons mentioned in paragraph (8) of this Section may be discharged from the further payment of rent or revenue in respect of the water-course.

Such Rules, when they shall have received the sanction of the Governor-General of India in Council, and when they shall have been published in the Official Gazette, shall be read with and taken as part of this Act.

Bar of suits for the compulsory taking, prior to this Act, of land for private water-courses.

Procedure in such cases

18. No suit shall lie in respect of the compulsory taking, prior to the passing of this Act, of any land for the formation of a private water-course for any of the purposes mentioned in the preamble to this Act. But in every such case it shall be lawful for the Collector within one year from the passing or extension of this Act, on the application of the person from whom the land was so taken, his representatives or assigns, to adjust, in manner hereinbefore referred to, the amount to be given as purchase-money, rent or revenue for the said land; and, on failure, within thirty days after such adjustment shall have been notified to the person who shall have taken such land, his representatives or assigns, to pay the said purchase-money, or to give security to the satisfaction of the Collector for the due payment of the said rent or revenue, the Collector may replace the person from whom the land was so taken, his representatives or assigns, in possession of the

of the land aforesaid. The Collector may also award to him or them such compensation as the Collector shall think fit for the injury (if any) done to such land by the formation of the water-course, and the amount of such compensation may be recovered in such manner as the Local Government shall provide.

Present extent of Act

Act may be extended.

19. This Act applies to the Territories respectively under the Governments of the Lieutenant Governor of the North-Western Provinces and the Lieutenant Governor of the Punjab. But it may be extended, *mutatis mutandis*, to any other part of British India by an order of the Local Government notified in the Official Gazette; and from the date of any such extension, so much of any Act, Regulation or Rule having the force of law, which shall be in operation in the Territories to which such extension shall have been made, as shall be inconsistent with this Act or with any Rule prescribed by such Government pursuant to Section 17, shall cease to have effect in such Territories.

Military Orphan Press.—No. 141 L. C.—14-4-66.—2,100.

ACT No. XIII of 1866.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 23rd March 1866).

An Act to exempt certain suits in Oude from the operation of the rules of limitation in force in that Province.

Preamble

WHEREAS it is expedient to exempt certain suits in Oude relating to land from the operation of the rules of limitation in force in that Province; It is enacted as follows :—

Certain suits relating to tenures not to be barred if cause of suit arose on or after 13th February 1844.

1. No suit relating to any tenure which, under the provisions of Act No. XVI of 1865, shall be solely cognizable in the Courts of Revenue in the said Province, shall be barred under the rules of limitation in force in such Courts if the cause of suit shall have arisen on or after the 13th day of February 1844. And any suit or appeal relating to any tenure and cognizable as aforesaid, which may have been rejected or dismissed upon the ground that the suit was barred under the said rules, may be revived and heard on the merits, if the cause of suit shall have arisen on or after such day.

Bar of redemption-suits when mortgage executed before 13th February 1844.

2. When a mortgagee shall, under or by virtue of a mortgage executed before the said day, have obtained possession of any land comprised in his mortgage, the mortgagor, or any person claiming through him, shall not bring a suit in any Civil Court or any Revenue Court in the said Province to redeem the mortgage of such land, any subsequent acknowledgment of the title or right to redeem of the mortgagor, or of any person claiming through him, notwithstanding.

Certain redemption-suits may be revived when the mortgage was executed on or after 13th February 1844.

Provided that any suit for the redemption of land, which may have been rejected or dismissed upon the ground that the suit was barred under some rule of limitation in force, or supposed to be in force, in the said Province, may be revived and heard as aforesaid, if the mortgage shall have been executed on or after the said day.

PRICE TWO ANNAS.

This Act not to bar redemption-suits where fixed term for redemption had not expired before 13th February 1856.

3. Nothing herein contained shall be taken to bar a suit for redemption in any case where, by the instrument of mortgage, a term was fixed within which the property comprised therein might be redeemed, and such term had not expired before the 13th day of February 1856; Provided that if any such term had expired before that day, the suit shall be barred, whatever may have been the date on which the instrument was executed.

This Act to be read with Act No. XVI of 1865.

4. This Act shall be read with and taken as part of the said Act No. XVI of 1865.

E. Dean, Calcutta Central Press Company, Limited.

THE INDIAN POST OFFICE ACT, 1866.

ARRANGEMENT OF SECTIONS.

PART I.

Preliminary.

1. Commencement of Act. Short Title.
2. Interpretation Clause.
3. Repeal of Act No. XVII of 1854.
4. References to Act No. XVII of 1854 to be read as made to this Act.
5. Exclusive privilege of carrying letters vested in the Government of India.
6. Persons expressly forbidden to collect, carry or deliver letters.
7. Appointment of Officers for service of Post Office.

PART II.

Postage Rates.

8. Postage rates on letters.
9. Postage rates on newspapers.
10. Newspapers how to be sent by Letter-Post.
11. Newspapers when charged with letter-postage.
12. Proof-sheets.
13. Postage rates on books, packets of newspapers, &c.
14. Inland banghy-postage.
15. Table of distances for calculation of banghy-postage.
16. Where there is no Banghy-Post, parcels, books, &c., may be carried by Letter-Post. Effect of false certificate.
17. Book-packets and parcels not exceeding ten tolahs in weight to go by Letter-Post unless directed to be sent by Banghy or Book-packet Post.
18. Ship postage on parcels.
19. Governor-General in Council may direct pre-payment of postage in all cases.
20. Governor-General in Council may alter the rates of postage.
21. Governor-General in Council may fix rates of steam postage.

PRICE SEVEN ANNAS.

22. Governor-General in Council may fix rates of postage for articles sent wholly or partly by sea.

23. Governor-General in Council may fix Express postage rates.

24. Re-directed letters.

Part III.

Registered, Letters.

25. Letters may be registered.

26. Governor-General in Council may declare in what cases registration shall be compulsory.

Part IV.

Re-delivered, Unpaid, Unclaimed and Refused Letters.

27. Re-delivery of letters and other articles once put into Post Office.

28. Postage on unpaid letters, &c.

29. Unclaimed letters how to be dealt with.

Unclaimed letters when sent to Post Master General's Office to be opened,

And returned in Dead Letter covers to senders.

Money, &c., found therein, how disposed of.

30. Refused letters to be returned to Posting Office.

Part V.

Mails on board Inward and Outward bound Vessels.

31. Commanders of inward-bound vessels carrying Mails how to proceed on arrival.

Penalty.

32. Detention of letters on board inward-bound vessel.

33. Bounty-money.

34. Commanders of outward-bound vessels to receive Mails on board.

Part VI.

Postage Stamps.

35. Stamped letters to be considered as prepaid.

36. Postage stamps to be provided by Government.

37. Postage stamps to be under management of Officer appointed by Government.

38. Rules for guidance of vendors of postage stamps.

39. Penalty for breach of such rules.

40 Penalty for refusing to supply stamps.

41. Penalty for selling stamps for higher price than the value denoted thereby.

PART VII.

Offences against the Post Office

42. Penalty for sending dangerous substance by Post.

43. Penalty for making false certificate in order to defraud the Post Office.

44. Penalty for detaining Mails or opening mail-bags

45. Penalty for retaining letters, &c., delivered by mistake.

46. Penalty for conveying letter in breach of privilege.

Penalty for performing, otherwise than by the Post, any services incidental to conveying letters.

Penalty for making clubbed packet or tendering or delivering letter to be sent therein.

Penalty for sending letter in breach of privilege, or delivering letter to be so sent.

Penalty for collecting excepted letters to send them otherwise than by Post.

Penalty for breach of provisions of Section 6.

Penalty for practice of acts mentioned in this Section.

47. Penalty for neglect on the part of persons employed to carry Mails

48. Penalty for stealing, &c., or opening letters, &c., by persons employed in the Post Office.

49 Penalty for fraudulently altering marks on letters, &c., by persons employed in the Post Office.

50. Penalty for preparing incorrectly or altering or secreting documents by persons employed in the Post Office.

51. Penalty for sending letters on which postage has not been paid or charged by persons employed in the Post Office.

52 Penalty for abetting or concealing offences under this Act.

53. Any person charged with offence punishable with fine only may be summarily convicted.

54. Conviction to be quashed on merits only. Form of conviction.

55. Magistrate may refer charge to his Assistant.

56. Fines how levied.

Imprisonment if no sufficient distress, &c.

57. Share of fine to informer.

58. No proceedings for recovery of fines to be taken without an order

59. Post Office servants committing offences in allied States.

60 Letters, &c., suspected to contain contraband articles, or writing in contravention of this Act, how to be dealt with.

61. Property sent by the Post to be laid in the Post Master General.

PART VIII.

Miscellaneous.

62. Letters on Her Majesty's service, duly certified as such, how to be charged.

63. Governor-General in Council may frame rules.

64. District dáks.

65. Government not responsible for loss.

ACT No. XIV of 1866.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor-General on the 23rd March* 1866).

An Act to amend the law for the management of the Post Office, for the regulation of the Duties of Postage, and for the punishment of offences against the Post Office.

Preamble.

WHEREAS it is expedient to amend the law for the management of the Post Office, for the regulation of the Duties of Postage, and for the punishment of offences against the Post Office; It is enacted as follows:—

PART I.

Preliminary.

Commencement of Act. Short title.

1. This Act shall come into operation on the first day of May 1866, and may be cited as "The Indian Post Office Act, 1866."

Interpretation Clause. "Criminal Court." "Fine." "Clubbed Packet." "Newspaper." "Mails."

2. In this Act—unless there be something repugnant in the subject or context—"Criminal Court" includes every Judge, Magistrate, Justice of the Peace or Police Magistrate lawfully exercising jurisdiction in criminal cases: "Fine" includes a penalty or forfeiture, or a sum of money due upon a forfeited recognizance: "Clubbed packet" shall be taken to mean a packet containing a collection of letters, not made by an agent of the Post Office, transmitted through the Post Office with the view of the enclosed letters being delivered to more than one person through the agent of the person by whom the packet was made up: "Newspaper" shall include any periodical publication, published at regular intervals not exceeding thirty-one days: "Mails" shall include any letter, parcel or other article conveyed under the provisions of this Act, as well as any box, bag or other article, or any carriage, horse, messenger or other person employed or used by

by the Post Office for the conveyance or safe custody of the Mails; and "British India" includes the territories which are now or shall be vested in Her Majesty or Her successors by the Statute 21 & 22 Vic., cap. 106 (An Act for the better Government of India).

"British India."

3. Act No. XVII of 1854 is hereby repealed, except so far as it repeals the whole or any part of any other Act or Regulation, and except as to any act or offence which shall have been done or committed, or to any money which shall have become due, or to any fine or penalty which shall have been incurred, or to any proceedings which shall have been commenced before this Act shall come into operation.

Repeal of Act No. XVII of 1854.

4. References to any Section of Act No. XVII of 1854 made in any Act passed subsequent thereto, shall be read as if made to the corresponding Section of this Act.

References to Act No. XVII of 1854 to be read as made to this Act.

5. Wheresoever, within British India, posts or postal communications are or shall be established by the Government of India, the said Government shall have the exclusive privilege of conveying by Post, from one place to another, all letters, except in the following cases, and shall also have the exclusive privilege of performing all the incidental services of receiving, collecting, sending, despatching and delivering all letters, except in the following cases, that is to say—

Exclusive privilege of carrying letters vested in the Government of India.

(1.) Letters sent by a private friend in his way, journey or travel, so as such letters be delivered by such friend to the person to whom they shall be directed, without hire, reward or other profit or advantage for receiving, carrying or delivering the same:

(2.) Letters solely concerning the affairs of the sender or receiver thereof, sent by a messenger on purpose:

(3.) Letters solely concerning goods or other property sent either by sea or land to be delivered with the goods or property which such letters concern, without hire, reward or other profit or advantage for receiving, carrying or delivering such letters. But nothing herein contained shall authorize any person to make a collection of such excepted letters for the purpose of sending them in the manner hereby authorized.

6. Wheresoever

Persons expressly forbidden to collect, carry or deliver letters

6. Wheresoever, within British India, posts or postal communications are or shall be established by the Government of India, the following persons are expressly forbidden to collect, carry, tender or deliver any letter or letters, or to receive any letter for the purpose of carrying or delivering the same, although they shall not receive hire or reward for so doing, that is to say—.

(1.) Common carriers of passengers or goods, and their drivers, servants or agents, except letters solely concerning goods in their carriages :

(2.) Owners and Commanders of ships, steam-boats or other vessels passing on any river or canal, or to or from any port in British India, and their servants or agents, except letters solely concerning goods on board.

Appointment of Officers for service of Post Office

7. For carrying on the service of the Post Office, it shall be lawful for the Governor-General of India in Council to appoint or to authorize the appointment of such Officers, with such official styles or designations, and to invest them with and delegate to them such powers not inconsistent with the provisions of this Act, as the said Governor-General of India in Council may, from time to time, deem expedient.

PART II.

Postage Rates.

Postage rates on letters

8. Wheresoever posts or postal communications are or shall be established by the Government of India, postage, if pre-paid by a stamp or stamps as hereinafter provided, shall be charged by weight on letters transmitted by the Letter-Post by land, according to the following scale :—

On every letter not exceeding a quarter of a tolah in weight,—six pie :

On every letter exceeding a quarter of a tolah and not exceeding half a tolah in weight,—one anna :

On every letter exceeding half a tolah and not exceeding one tolah in weight,—two annas :

And for every half tolah in weight above one tolah, one additional anna; and every fraction of half a tolah above one tolah shall be charged as one additional half tolah.

Every

Every article transmitted by the Letter-Post shall be deemed a letter within the meaning of this Section, unless it be an article on which a different rate of postage shall be chargeable under this Act.

Postage rates on newspapers.

9 Wheresoever posts or postal communications are or shall be established by the Government of India, postage on newspapers, transmitted by the Letter-Post by land, shall be charged by weight according to the following scale:—

On every newspaper not exceeding ten tolahs in weight,—one anna:

On every newspaper exceeding ten tolahs and not exceeding twenty tolahs in weight,—two annas:

And for every ten tolahs in weight above twenty tolahs, one additional anna; and every fraction of ten tolahs shall be charged as ten additional tolahs.

An extra or supplement to any newspaper, bearing the same date as the newspaper and transmitted therewith under the same cover, shall be deemed part of the newspaper.

Nothing contained in this Act shall be construed to oblige any person to send any newspaper through the Post Office, but it shall be lawful for all persons to send the same in any other manner.

Newspapers how to be sent by Letter-Post.

10 A newspaper shall not be sent by the Letter-Post at the rates prescribed in the last preceding Section, unless the following conditions be observed, that is to say—

(1.) It shall be without a cover, or in a short cover open at both ends.

(2.) There shall be no word printed on such newspaper after its publication, or upon the cover thereof, nor any writing or mark upon it, or upon the cover of it, except the name and address of the person to whom it is sent, and the name and address of the sender.

(3.) There shall be no paper or thing enclosed in or with any such newspaper.

11. Any

11. Any newspaper sent by the Letter-Post in respect of which the above conditions shall not be observed shall, together with any thing enclosed in or with the same, be charged with postage at the rate which would be charged on an unstamped letter of equal weight.

Newspapers when charged with letter-postage.

12. Proof-sheets marked as such may be sent by the Letter-Post at the rates prescribed for newspapers, provided the contents be correctly certified on the cover by the signature in full of the sender; otherwise the same shall be charged with postage at the rate which would be charged on an unstamped letter of equal weight.

Proof-sheets.

13. Subject to such Rules and conditions as the Governor-General of India in Council may from time to time direct, books, packets of newspapers and other articles, provided the postage thereon be prepaid by means of a proper stamp or stamps to be affixed thereon as hereinafter provided, shall be charged with the following rates of postage, without reference to the distance to which they may be carried:—

Postage rates on books, packets of newspapers, &c.

If not exceeding ten tolahs in weight,—one anna:

If exceeding ten tolahs and not exceeding twenty tolahs in weight,—two annas:

And for every ten tolahs in weight above twenty tolahs, one additional anna; and every fraction of ten tolahs shall be charged as ten additional tolahs.

If the postage chargeable on any such book or other article be not prepaid as aforesaid, it shall be subject to the rate of postage prescribed for banghy-parcels in Section 14 of this Act.

14. Inland postage shall be charged by weight and distance, on parcels sent by the Banghy-Post, according to the following scale:—

Inland banghy-postage.

For Distances.		If not exceeding in weight															
		20 Tolahs.		50 Tolahs.		100 Tolahs.		200 Tolahs.		300 Tolahs.		400 Tolahs.		500 Tolahs.		600 Tolahs.	
	Miles.	Rs.	As.	Rs.	As.	Rs.	As.	Rs.	As.	Rs.	As.	Rs.	As.	Rs.	As.	Rs.	As.
Not exceeding .	300	0	4	0	8	0	12	1	8	2	4	3	0	3	12	4	8
Not exceeding .	600	0	8	1	0	1	8	3	0	4	8	6	0	7	8	9	0
Not exceeding ..	900	0	12	1	8	2	4	4	8	6	12	9	0	11	4	13	8
Not exceeding ...	1,200	1	0	2	0	3	0	6	0	9	0	12	0	15	0	18	0
Exceeding ..	1,200	1	4	2	8	3	12	7	8	11	4	15	0	18	12	22	8

Provided

Provided that not more than one letter shall be enclosed in a banghy-parcel, under a penalty not exceeding fifty rupees.

Table of distances for calculation of banghy-postage.

15. Banghy-postage, when chargeable by distance under Section 14 of this Act, shall be calculated and charged according to such Table of distances as shall be authorized from time to time for that purpose by the Governor-General of India in Council. And it shall be lawful for the Governor-General of India in Council to declare that the distances from or to Post Offices not entered in such Table shall, for the purposes of this Act, be regarded as represented by the distances shown in the Table from or to the Post Offices nearest to them respectively. Each Post Master General shall prepare from the aforesaid Table, in the English and vernacular languages, for the use of every Post Office under his control, a list of all the other Post Offices in India, arranged alphabetically, and showing the distance of each of them from the Post Office for the use of which it is made, and such list shall be affixed in some conspicuous place in such Post Office.

Where there is no Banghy-Post, parcels, books, &c., may be carried by Letter-Post.

16. Where there is no Banghy-Post established on any line of road, parcels, books and other articles shall be received and transmitted by the Letter-Post, and shall be charged with postage according to the scale in Section 13 or 14 of this Act, as the case may be, if it be certified in writing, on such parcel, book-packet or other article under the full signature and address of the sender, that it does not contain any letter or other written communication on which a higher rate of postage is chargeable under any Section of this Act.

Effect of false certificate.

If any such certificate be false, any such letter or other written communication contained in such certified parcel, book-packet or other article shall be charged with letter-postage as if sent separately, and the sender shall be subject to the penalty hereinafter provided.

Book-packets and parcels not exceeding ten tolahs in weight to go by Letter-Post unless directed to be sent by Banghy or Book-packet Post.

17. All book-packets and parcels not exceeding ten tolahs in weight, sent through the Post Office, shall be conveyed by Letter-Post, and be charged with letter-postage, unless specially directed to be sent by Banghy or Book-packet Post.

18. On

Ship postage on parcels

18. On all parcels chargeable under Section 14 of this Act with banghy-postage according to distance when conveyed by land, ship postage shall be charged when they are conveyed by means o Her Majesty's Indian Post by sea, according to the following scale, that is to say—

On every parcel not exceeding twenty tolahs in weight,—two annas.

On every parcel exceeding twenty tolahs but not exceeding forty tolahs in weight,—four annas:

On every parcel exceeding forty tolahs but not exceeding one hundred tolahs in weight,—eight annas:

And for every hundred tolahs in weight above one hundred tolahs,—eight additional annas. Every fraction of one hundred tolahs above one hundred tolahs shall be charged as one hundred additional tolahs; and if such parcel be conveyed by Her Majesty's Indian Post, partly by land and partly by sea, ship postage shall be charged in addition to inland banghy-postage

Governor-General in Council may direct prepayment of postage in all cases

19. It shall be lawful for the Governor-General of India in Council at any time to direct that all or any letters or other articles shall not be forwarded by Post, unless the postage thereof shall be fully pre-paid by means of a proper stamp or stamps; or that on all or any letters or other articles on which the postage shall not be fully prepaid by a stamp or stamps, or otherwise, as the said Governor-General in Council shall direct, there shall be charged such higher rates of postage as from time to time may be deemed expedient, not exceeding double the rates of postage hereinbefore specified.

Governor-General in Council may alter the rates of postage

20. It shall be lawful for the Governor-General of India in Council from time to time to authorize the levy of postage at rates different from those prescribed in this Act, provided that no increase be made in any particular of the rates prescribed in Sections 8 and 9 of this Act.

Governor-General in Council may fix rates of steam postage

21. It shall be lawful for the Governor-General of India in Council from time to time to direct that postage duties, different from the rates authorized by this Act, shall be chargeable on letters or other articles to be specified in such order, sent through the Post from or to any part of Great Britain, or any British colony, or any Foreign country

country to or from any places in British India. The postage charged on any letter or other article specified in any order of Council made under this Section, whether under the name of steam postage or any other denomination, shall, after the rates of such postage have been published in the Official Gazette of any Presidency, be recovered in the same manner as postage under this Act.

Governor-General in Council may fix rates of postage for articles sent wholly or partly by sea

22. It shall be lawful for the Governor-General of India in Council to fix, from time to time, rates of postage to be levied on all letters or other articles transmitted by Post, by sea, or partly by sea and partly by land, from one part or place in India to another. It shall not be necessary that such rates be uniform; but they may vary according to the conveyance or route by which such letters or other articles shall be sent.

Governor-General in Council may fix Express postage rates.

23. It shall be lawful for the Governor-General of India in Council from time to time to fix and order any rate of postage to be charged for the conveyance of letters or other articles by Express, in addition to or instead of any other rates of postage chargeable on such letters and articles under this Act.

Re-directed letters.

24. On every letter or other article which shall be re-directed at any Post Office or forwarded by Post from any place to which it shall have been conveyed by Post, there shall be charged for the postage thereof from the place at which the same shall be re-directed, or from which it shall be forwarded, in addition to all other postage paid or due thereon, the rate of postage to which it would be liable if posted and pre-paid by stamp at the place where it shall be re-directed or from which it shall be forwarded.

Part III.

Registered Letters.

Letters may be registered.

25. Any person posting a letter or other article shall be entitled to require that it shall be registered at the receiving Post Office, and that a receipt shall be granted for such registered letter or article; and it shall be lawful for the Governor-General of India in Council to direct that, in addition to any rates of postage payable under this Act, a fee not exceeding four annas shall be charged on any letter or other article which the sender thereof shall require to be so registered, and such registration fee shall be paid by means of a stamp or stamps affixed to the letter or other article.

26. It

26. It shall be lawful for the Governor-General of India in Council from time to time by order to declare in what cases registration shall be compulsory, and to direct that a double registration fee shall be levied on the delivery of any letter or other article which ought, under the order of the Governor-General in Council, to have been registered at the time of posting, on which the registration fee shall not have been pre-paid as directed in Section 25.

Governor-General in Council may declare in what cases registration shall be compulsory.

PART IV.

Re-delivered, Unpaid, Unclaimed and Refused Letters.

27. No person having delivered into any Post Office any letter or other article shall be entitled to recall the same; but nothing in this Section shall prevent the re-delivery of any letter or other article to the sender thereof, subject to such rules and regulations, if any, as the Governor-General of India in Council may from time to time prescribe in that behalf.

Re-delivery of letters and other articles once put into Post Office

28. The person to whom any letter or other article, the postage of which has not been paid, shall be delivered, shall not be bound to pay the postage if he forthwith return the same unopened; but if he open the same, he shall be bound to pay the postage due thereon. If he forthwith return the same unopened, the sender of the letter or other article shall be bound to pay the postage thereof. If any person shall refuse to pay any postage which he is legally bound to pay for any letter or other article, the same may be recovered for the use of the Secretary of State for India by any Post Master General, or by any Officer in charge of a Post Office by order of a Post Master General, in the same manner as a fine may be recovered under this Act; and it shall be lawful for the Officer in charge of any Post Office to withhold from the person so refusing, until such postage be paid, any other letter or other article addressed to that person, not being on Her Majesty's Service. Provided always, that if a letter or other article shall appear to the satisfaction of the Post Master of the Office of delivery to have been maliciously sent for the purpose of annoying the person to whom it is addressed, the Post Master of the delivery Office may remit the postage.

Postage on unpaid letters, &c

29. *Clause* 1.—A list of all letters and other articles posted and addressed to persons who cannot be found shall be prepared daily in every Post Office, and exposed for not less than two weeks in the most conspicuous part of such Office; and all such letters and other articles which

Unclaimed letters how to be dealt with.

which shall have remained three weeks unclaimed in any Office shall, if the sender's name and address are written on the cover, be returned to the Posting Office to be delivered to the sender free of all charge. All letters and other articles of which the sender's name and address cannot be ascertained unless they be opened, shall, after remaining unclaimed for three weeks as aforesaid, be forwarded to the Office of the Post Master General of the Presidency.

Unclaimed letters when sent to Post Master General's Office to be opened, and returned in Dead Letter covers to senders

Clause 2.—The Post Master General or some person duly appointed for the purpose and bound to secrecy, shall immediately open all such letters or other articles, and if the addresses of the senders can be discovered, shall enclose them in Dead Letter covers, and return them to the senders. All letters and other articles of which neither the person addressed nor the sender can be found, shall, after they have remained unclaimed in the Office of the Post Master General for one year, be destroyed.

Money, &c., found therein how disposed of

Clause 3.—All money found in any unclaimed letter or other article shall be paid into the Public Treasury, and all other valuable property found as above shall be sold by the Post Master General of the Presidency or by some one duly authorized by him for that purpose; and the proceeds of the sale shall be paid into the Public Treasury for the benefit of any person who may have a right thereto, after deducting all sums due from such person for postage.

Refused letters to be returned to Posting Office

30. Every letter or other article rejected unopened by the person to whom it is addressed, shall, if any postage is due thereon and if the sender's name and address are written on the cover, be returned to the Posting Office, in order that the postage due may be recovered from the sender; in all other cases, or when the sender's name and address are not on the cover, such letter or other article shall be forthwith sent to the Office of the Post Master General of the Presidency, who shall open the letter or other article and take measures to recover the postage from the sender, or shall at his discretion destroy the letter or other article; and all money or other valuable property which such letter or other article may contain, shall be disposed of in the manner prescribed in the preceding Section with respect to such money or property contained in unclaimed letters.

PART V.

Mails on board Inward and Outward bound Vessels.

Commanders of inward-bound vessels carrying Mails how to proceed on arrival.

31. When any vessel arrives by sea at any place within British India at which there is a Post Office, the Commander of such vessel shall, as speedily as possible, cause every letter, mail bag, box and packet on board of such vessel, which is directed to that place and not excepted from the exclusive privilege of the Post Office, to be delivered either at the Post Office or to some Officer of the Post Office authorized to receive the same; and if there be on board any letter, mail bag, box or packet, directed to any other place and not excepted from the exclusive privilege aforesaid, the said Commander shall as speedily as possible report the same to the Post Master of the place at which he has arrived, and shall act according to the directions he may receive from such Post Master, and the receipt of such Post Master shall discharge such Commander from all responsibility in respect of such letter or packet. Every Commander of a vessel who shall wilfully disobey any of the directions contained in this Section, shall be punished with a fine not exceeding one thousand rupees.

Penalty.

Detention of letters on board inward-bound vessel.

32. Every person being either the Commander of a vessel inward-bound or any one on board such vessel, who shall, within British India, knowingly have in his possession any letter not excepted from the privilege of the Post Office, after any part of the letters on board the said vessel shall have been sent to the Post Office, shall forfeit for every such letter a sum not exceeding fifty rupees, whether the letter be in the baggage or on the person of the offender, or otherwise in his custody; and every such person who shall detain any such letter after demand made for the same by an Officer of the Post Office, shall forfeit for every such letter a sum not exceeding one hundred rupees.

Bounty-money.

33. For every letter delivered by the Commander of any ship in conformity with the directions of Section 31 of this Act, the Officer in charge of the Post Office shall pay to the said Commander the sum of one anna; and the sum of one anna shall be chargeable as postage on such letter, in addition to any other postage chargeable thereon under this Act. Provided that no payment shall be made to the Commander of any vessel on account of the delivery of any letter, unless the claim of such Commander

mander shall be preferred before the vessel leaves the place at which the letter was delivered, or before the expiration of two months from the date of the arrival of such vessel. Provided also, that nothing contained in Section 31 and the former part of this Section of this Act, shall extend to any letter or mail bag, or box or packet conveyed by any mail ship or mail steamer recognized as such by the Governor-General of India in Council.

Commanders of outward-bound vessels to receive Mails on board.

34. The Commander of every vessel leaving any place in British India by sea, shall receive on board of such vessel every letter and packet which he shall be required so to receive by any Officer of the Post Office, and shall give a receipt for such letter or packet; and every Commander of a vessel who shall wilfully disobey any direction contained in this Section, shall be punished with a fine not exceeding one thousand rupees.

PART VI.

Postage Stamps.

Stamped letters to be considered as pre-paid.

35. All letters and other articles having a stamp or stamps affixed thereto (such stamp or stamps in every case being affixed on the outside, and being equal in value to the rate or rates of postage to which such letters or other articles are liable under this Act), shall, provided the stamp or stamps shall not have been used before, be considered as pre-paid.

Postage stamps to be provided by Government.

36. The Governor-General of India in Council shall cause postage stamps to be provided, denoting such values as the said Governor-General of India in Council may direct, and shall give such orders, and make such other regulations relative thereto, as may be deemed expedient.

Postage stamps to be under management of Officer appointed by Government.

37. Postage stamps, provided as aforesaid, shall be under the care and management of such Officer or Officers as the Governor-General of India in Council shall from time to time direct: postage stamps shall be considered as stamps issued by Government for the purpose of Revenue, within the meaning of the Indian Penal Code; and all sums of money realized by the sale of such stamps shall be carried in the public accounts to the credit of the Post Office.

38. The

38. The Governor-General of India in Council may from time to time make rules for the appointment and government of vendors of postage stamps, and thereby direct how and under what terms and conditions postage stamps may be supplied to them for sale; and whether any and what security shall be given by such vendors; and whether any and what remuneration or discount shall be allowed to them; and how and in what manner, and at what time or times, such vendors shall keep and render their accounts, and pay over the proceeds of any sales made by them, or re-deliver the stamps entrusted to them.

Rules for guidance of vendors of postage stamps.

39. Government vendors of postage stamps shall be bound by such rules, and in case of any wilful breach thereof, shall be punished with a fine not exceeding two hundred rupees in addition to any other proceedings to which they may be liable.

Penalty for breach of such rules.

40. Any Government vendor of postage stamps who shall be convicted of refusing, or unnecessarily delaying without reasonable excuse, to furnish postage stamps to any person desiring to purchase the same, and tendering in lawful currency the full value thereof (the stamp vendor having in his possession for sale sufficient stamps of the description and value required), shall be punished with a fine not exceeding one hundred rupees.

Penalty for refusing to supply stamps.

41. Any Government vendor of postage stamps convicted of taking from a purchaser a higher price than the value denoted on the stamps sold, shall be punished on conviction with imprisonment of either description, as defined in the Indian Penal Code, for any term not exceeding six months, or shall be liable to a fine not exceeding one hundred rupees; and shall also be liable to refund to the purchaser the whole amount proved to have been taken in excess, which amount may be recovered by such purchaser before a Criminal Court, in the same manner as any penalty under this Act.

Penalty for selling stamps for higher price than the value denoted thereby.

PART VII.

Offences against the Post Office.

42. No person shall knowingly post, or send, or tender, or deliver, in order to be sent by the Post, any letter, parcel or packet containing any explosive or other dangerous material or substance; and any person contravening this prohibition shall be punished for every such offence with a fine not exceeding two hundred rupees.

Penalty for sending dangerous substance by Post.

43. Every

43. Every person who shall, for the purpose of defrauding the Post Office Revenue, wilfully certify by writing on any official or other letter or packet delivered at any Post Office for conveyance by Post, that which is not true in respect of such letter or packet or in respect of the whole of its contents, or shall knowingly send or deliver, or attempt to send or deliver, for conveyance by Post, any letter or packet with any such false certificate thereon; and every person who shall knowingly send or permit to be sent by Post, under colour or pretence of an official communication, any letter, paper, writing or other enclosure of a private nature, shall, for every such offence, be punished with a fine not exceeding five hundred rupees.

Penalty for making false certificate in order to defraud the Post Office.

44. It shall not be lawful for any person, unless acting by express order of the Government, to detain, except for a criminal offence, a Post Office messenger whilst carrying the Mails, or to detain any carriage or horse upon which the Mails are being carried, or on any pretence to open a packet or mail bag or box in transit from one Post Office to another, and every person who shall be guilty of any of the offences mentioned in this Section, shall be punished with a fine not exceeding five hundred rupees.

Penalty for detaining Mails or opening mail bags.

45. Every person who shall fraudulently retain, or wilfully secrete, or make away with, or keep or detain, or, being required to deliver up by an Officer of the Post Office, shall neglect or refuse to deliver up a Post letter or other article which ought to have been delivered to any other person, or a mail bag, box or packet containing a letter or other article which shall have been sent by the Post, shall be punished, on conviction before a Criminal Court, with imprisonment of either description as defined in the Indian Penal Code, for a term not exceeding two years, and shall also be liable to fine.

Penalty for retaining letters, &c., delivered by mistake.

46. *Clause* 1.—Every person who shall convey, otherwise than by the Post, a letter not excepted from the said exclusive privilege conferred on the Government of India by Section 5 of this Act shall, for every letter so conveyed, forfeit a sum not exceeding fifty rupees.

Penalty for conveying letter in breach of privilege.

Clause 2.—Every person who shall perform, otherwise than by the Post, any services incidental to conveying letters from place to place, whether by receiving, taking up, ordering, collecting, carrying, tendering or delivering a letter or letters not excepted from the said exclusive privilege, shall forfeit for every such letter a sum not exceeding fifty rupees.

Penalty for performing, otherwise than by the Post, any services incidental to conveying letters.

Clause 3.

Clause 3.—Every person who shall make a collection of letters for the purpose of transmitting them through the Post in a clubbed packet, and every person who shall knowingly tender or deliver a letter to be sent in a clubbed packet, shall forfeit for every such letter a sum not exceeding fifty rupees.

Penalty for making clubbed packet or tendering or delivering letter to be sent therein.

Clause 4.—Every person who shall send a letter not excepted from the said exclusive privilege, otherwise than by the Post, or shall either tender or deliver a letter not so excepted, in order to be sent otherwise than by the Post, shall forfeit for every such letter a sum not exceeding fifty rupees.

Penalty for sending letter in breach of privilege, or delivering letter to be so sent.

Clause 5.—Every person who shall make a collection of excepted letters for the purpose of sending them otherwise than by the Post, shall forfeit for every such letter a sum not exceeding fifty rupees.

Penalty for collecting excepted letters to send them otherwise than by Post.

Clause 6.—Every person who shall carry, receive, tender or deliver a letter, or collect letters contrary to the provisions of Section 6 of this Act, shall forfeit for every such letter a sum not exceeding fifty rupees.

Penalty for breach of provisions of Section 6.

Clause 7.—Every person who shall be in the practice of committing any of the acts mentioned in this Section, shall, for every week during which the practice shall be continued, forfeit a further sum not exceeding five hundred rupees.

Penalty for practice of acts mentioned in this Section.

47. Every person employed to convey or deliver any mail bag or box, or any letter or other article sent by Post, who shall be guilty, while so employed, of drunkenness, carelessness or other misconduct, whereby the safety of any such bag, box, or letter or other article shall be endangered; or who shall loiter or make delay in the conveyance or delivery of any such bag, box, letter or other article; or who shall not use proper care and diligence safely to convey or deliver any such bag, letter or other article, shall be liable to a fine not exceeding fifty rupees; and any person employed to deliver a letter or other article sent by the Post, who shall not duly deliver the same, shall, within a reasonable time not exceeding twenty-four hours, report the fact at the Post Office where he received such letter or other article, and return the same; and if any such person shall wilfully make a false report, he shall be liable to a fine not exceeding fifty rupees.

Penalty for neglect on the part of persons employed to carry Mails.

48. Whoever

Penalty for stealing, &c., or opening letters, &c., by persons employed in the Post Office.

48. Whoever being in the employ of the Government in the Post Office Department, shall steal, fraudulently appropriate, or wilfully secrete, destroy or throw away any letter or other article sent by Post, or anything contained in any such letter or other article, or shall mutilate or break open any such letter or other article, or any mail bag or box, with the intention of fraudulently appropriating anything therein contained, shall be punished, on conviction before a Criminal Court, with imprisonment of either description as defined in the Indian Penal Code, for a term not exceeding seven years, and shall also be liable to fine.

Penalty for fraudulently altering marks on letters, &c., by persons employed in the Post Office.

49. Whoever being in such employ as last aforesaid, shall fraudulently put any wrong mark on any letter or other article, or shall fraudulently alter, remove or cause to disappear any mark or stamp which is on any letter or other article ; or shall fraudulently use or place with or upon any letter or other article, any stamp which shall have been removed from any other letter or other article ; or, being entrusted with the delivery of any letter or other article, shall knowingly demand or receive any sum of money for the postage thereof other than the sum duly chargeable for such postage, shall be punished, on conviction before a Criminal Court, with imprisonment of either description as defined in the Indian Penal Code for a term not exceeding two years, and shall also be liable to fine.

Penalty for preparing incorrectly or altering or secreting documents by persons employed in the Post Office.

50. Whoever being in such employ as last aforesaid, and being entrusted with the preparing or keeping of any document, shall, with a fraudulent intention, prepare the document incorrectly, or alter that document, or secrete or destroy that document, shall be punished, on conviction before a Criminal Court, with imprisonment of either description as defined in the Indian Penal Code for a term not exceeding two years, and shall also be liable to fine.

Penalty for sending letters on which postage has not been paid or charged by persons employed in the Post Office.

51. Whoever being in such employ as last aforesaid, shall send by the Post, or put into any mail bag or box, any unstamped letter or other article upon which postage has not been paid or charged in the manner prescribed in this Act, intending thereby to defraud the Government of the postage on such letter or other article, shall be punished, on conviction before a Criminal Court, with imprisonment of either description as defined in the Indian Penal Code for a term not exceeding two years, and shall also be liable to fine.

52. Whoever

52. Whoever abets, within the meaning of the Indian Penal Code, or conceals any offence made punishable by this Act, shall be punished with the punishment provided for such offence.

Penalty for abetting or concealing offences under this Act.

53. Any person, whether a European British subject or not, who shall be guilty of any offence for which according to the provisions of this Act he shall be liable to a fine only, shall be punishable for such offence by any Criminal Court upon summary conviction.

Any person charged with offence punishable with fine only may be summarily convicted.

54. No conviction, order or judgment of any Criminal Court, shall be quashed for error of form or procedure, but only on the merits; and it shall not be necessary to state on the face of the conviction, order or judgment, the evidence on which it proceeds, but the depositions taken or a copy of them shall be returned with the conviction, order or judgment, and if no jurisdiction appears on the face of the conviction, order or judgment, but the depositions taken supply that defect, the conviction, order or judgment, shall be aided by what so appears in such depositions.

Conviction to be quashed on merits only.

Form of conviction

55. A Magistrate may refer for trial and decision any charge of an offence hereby made punishable by fine only, to any of his Assistants or to any Deputy Magistrate lawfully appointed to exercise the powers of a Covenanted Assistant, and in such case every such Assistant or Deputy Magistrate may exercise all the powers vested in a Magistrate, subject to all the rules applicable to criminal cases deputed to such Assistants or Magistrates acting judicially.

Magistrate may refer charge to his Assistant.

56. All fines imposed under the authority of this Act, for offences punishable by fine only, by any Criminal Court or by any Assistant to a Magistrate or Deputy Magistrate, may, in case of non-payment thereof, be levied by distress and sale of the goods and chattels of the offender, by warrant under the hand of any of the above-named Officers. In case any such fine shall not be forthwith paid, any such Officer may order the offender to be apprehended and detained in safe custody until the return can be conveniently made to such warrant of distress, unless the offender shall give security to the satisfaction of such Officer for his appearance at such place and time as shall be appointed for the return of the warrant of distress, and such Officer may take security by way of recognizance or otherwise. If upon the

Fines—how levied.

the return of such warrant, it shall appear that no sufficient distress can be had whereon to levy such fine, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of such Officer, by the confession of the party or otherwise, that he has not sufficient goods and chattels whereupon such fine or sum of money could be levied if a warrant of distress were issued, any such Officer, by warrant under his hand, may commit the offender to prison, there to be imprisoned only, or to be imprisoned and kept to hard labour, according to the discretion of such Officer, for any term not exceeding two calendar months where the amount of the fine shall not exceed fifty rupees, and for any term not exceeding four calendar months where the amount shall not exceed one hundred rupees, and for any term not exceeding six calendar months in any other case; the commitment to be determinable in each of the cases aforesaid on payment of the amount.

Imprisonment if no sufficient distress, &c

Share of fine to informer

57. A share not exceeding one moiety of every fine imposed and recovered under this Act, may be awarded to the informer.

No proceedings for recovery of fines to be taken without an order.

58. No proceedings shall be taken for the recovery of any fine imposed under the authority of this Act, for offences punishable by fine only, without an order of Government, or an order in writing under the hand of the Director General of the Post Office, or of a Post Master General, or other Officer specially invested with the powers of a Post Master General.

Post Office servants committing offences in allied States.

59. If any public servant who shall be employed in the Post Office Department, or shall be appointed a vendor of postage stamps, or entrusted by the Government of India or any local Government with the sale of postage stamps within the dominions of any Foreign Prince or State in India in alliance with Her Majesty, in which a post shall be established by the Government of India, shall, within the dominions of such Prince or State, commit any act hereby prohibited, or omit to do any act hereby required to be done by any person similarly employed, appointed or entrusted as aforesaid within British India, such public servant shall be guilty of an offence, and, on conviction thereof, shall be punished in the same manner as if such act had been done or omitted within British India; and every such person may be tried, convicted and punished either by fine or otherwise, according to the nature of the offence, by any Court or Officer duly empowered by the Governor-

Governor-General of India in Council, to take cognizance of offences committed in such dominions by public servants, or by any Court or Magistrate, or other competent Officer in any part of British India, in the same manner as if the offence had been committed in such part.

Letters, &c., suspected to contain contraband articles, or writing in contravention of this Act, how to be dealt with.

60. If any Officer in charge of a Post Office shall suspect that any letter or other article lying for delivery at his Office contains any contraband article, or any article on which duty is owing to Government; or that any letter or other article lying for delivery at the Post Office contains any writing or enclosure in contravention of the provisions of Section 14, 16 or 43 of this Act, it shall be lawful for such Officer to summon the person to whom the letter or other article is directed, to attend at the Post Office by himself or agent, within forty-eight hours after the arrival thereof at that Post Office, and to open the same in the presence of the person to whom it is directed, or of that person's agent, and if that person shall not so attend by himself or agent, then to open it in the absence of that person. Provided that if the Officer in charge be under the rank of a Post Master, he shall call in two respectable persons as witnesses before he shall open a letter or other article in the absence of the person to whom it is addressed. Provided also, that in all cases the opened letter or other article shall be subsequently delivered to the persons to whom it is addressed, unless it be required for ulterior proceedings, and that the opening of the same and the circumstances connected therewith shall be immediately reported to the Post Master General. It shall also be lawful for any Officer in charge of a Post Office to refuse to forward any parcel through the Post Office by sea to any foreign port, or to any place not on the Continent of India, unless such parcel be accompanied by a Custom House Pass,

Property sent by the Post to be laid in the Post Master General.

61. Whenever an offence shall be committed in respect of any mail bag or box, or any letter or other article sent by the Post, it shall be lawful to lay, in the charge to be preferred against the offender, the property of such mail bag, box, letter or other article in the Post Master General of the Presidency; and it shall not be necessary in the charge to allege or to prove upon the trial or otherwise, that such mail bag, box, letter or other article was of any value; and in any charge to be preferred against any person employed under the Post Office for any offence committed against this Act, it shall be lawful to state that such offender was employed under the Post Office at the time of committing the offence, without stating further the nature or particulars of his employment.

Part VIII.

Miscellaneous.

Letters on Her Majesty's service, duly certified as such, how to be charged.

62. Letters and other articles on Her Majesty's service, certified to be such by the signature of any public Officer authorized in that behalf by the Governor-General of India in Council, shall be forwarded by the Post, and the postage due thereon shall be charged to or recovered from the several public Departments to or from which such letters or packets are sent, in such manner as the said Governor-General of India in Council shall, from time to time, direct.

Governor-General in Council may frame rules

63. It shall be lawful for the Governor-General of India in Council from time to time to frame rules for the conduct of the Post Office not inconsistent with this Act, and therein to prescribe the regulations, conditions and restrictions according to which all letters and other articles shall be posted, forwarded, conveyed and delivered.

District daks

64. It shall be lawful for the Governor-General of India in Council from time to time to frame rules for the management of all or any zamíndárí, tháná or other district dáks, and to declare from time to time what portions of this Act shall be applicable to such dáks, and to persons employed in connection therewith.

Government not responsible for loss

65. The Government shall not be responsible for any loss or damage which may occur in respect of any thing entrusted to the Post Office for conveyance; and no person employed by the Government in the Post Office Department shall be responsible for any such loss or damage, unless that person shall cause such loss or damage negligently, maliciously or fraudulently.

Military Orphan Press—No 147 L. C—24-4-66—2,400.

ACT No. XV of 1866.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor-General on the* 23*rd March* 1866.)

An Act to amend the Law of Partnership in India.

Preamble.

WHEREAS it is expedient to amend the Law relating to Partnership; It is enacted as follows :—

Lender not a partner by advancing money for share of profits.

1. The advance of money by way of loan to a person engaged or about to engage in any trade or undertaking upon a contract in writing with such person that the lender shall receive a rate of interest varying with the profits, or shall receive a share of the profits arising from carrying on such trade or undertaking, shall not, of itself, constitute the lender a partner with the person or the persons carrying on such trade or undertaking, or render him responsible as such.

Explanation.—A person who being entitled, whether as a retiring partner or otherwise, to demand and receive present payment of the value of any share or interest of or in the capital or other funds of a business shall, after the value thereof shall have been ascertained between such person and the person or persons liable to pay the same, agree in writing to allow the same to remain therein or to be used by such person or persons for the purposes of such business, shall be construed to make an advance of money by way of loan within the meaning of this Section.

Remuneration of agents, &c., by profits not to make them partners.

2. No contract for the remuneration of a servant or agent of any person engaged in any trade or undertaking by a share of the profits of such trade or undertaking shall, of itself, render such servant or agent responsible as a partner therein, nor give him the rights of a partner.

3. No

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Certain annuitants not to be deemed partners

3. No person being the widow or child of the deceased partner of a trader, and receiving by way of annuity a portion of the profits made by such trader in his business, shall, by reason only of such receipt, be deemed to be a partner of or to be subject to any liabilities incurred by such trader.

Receipt of profits, &c., not to make the seller a partner

4. No person receiving by way of annuity or otherwise a portion of the profits of any business, in consideration of the sale by him of the good-will of such business, shall, by reason only of such receipt, be deemed to be a partner of, or be subject to, the liabilities of the person carrying on such business.

Interpretation of "person"

5. In the construction of this Act, the word "person" shall include a Partnership Firm, a Joint Stock Company, and a Corporation.

Military Orphan Press.—No. 140.—25-4-66.—2,100

ACT No. XVI of 1866.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 23rd March 1866).

An Act to relieve the Governor-General of India in Council from the duty of signing the Commissions mentioned in Sections 22 and 44 of the High Courts' Criminal Procedure Amendment Act, 1865.

Preamble.

WHEREAS it is expedient to relieve the Governor-General of India in Council from the duty of signing the Commissions respectively mentioned in Sections 22 and 44 of "The High Courts' Criminal Procedure Amendment Act, 1865;" It is enacted as follows:—

Seal to be made.

1. A Seal shall be made at the expense of the Government of India with this inscription, "The Seal of the Governor-General of India in Council," and shall be kept in the custody of such person as the Governor-General of India in Council shall from time to time appoint in that behalf, and the Commissions respectively mentioned in Sections 22 and 44 of "The High Courts' Criminal Procedure Amendment Act, 1865," may be stamped with such Seal by such person as the Governor-General of India in Council shall from time to time appoint in that behalf; and when so stamped shall be equally valid and effectual as if they had been signed by the Governor-General of India and the Members of his Council.

Stamping of Commissions under Act No. XIII of 1865, Sections 22 and 44

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Military Orphan Press No 199 M —25 4-66.—1,900.

ACT No. XVII of 1866.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 23rd March 1866).

An Act to provide for the establishment of a Public Museum at Calcutta.

Preamble.

WHEREAS it is expedient to provide for the establishment of a Public Museum at Calcutta, to be called the Indian Museum; It is enacted as follows:—

Building to be erected for Indian Museum.

1. The Governor-General of India in Council shall cause to be erected at the expense of the Government of India, a suitable building in Calcutta, on or near the site now occupied by the Small Cause Court, to be devoted in part to collections illustrative of Indian Archæology and of the several branches of Natural History, in part to the preservation and exhibition of other objects of interest, whether historical, physical or economical, in part to the records and offices of the Geological Survey of India, and in part to the fit accommodation of the Asiatic Society of Bengal and to the reception of their Library, Manuscripts, Maps, Coins, Busts, Pictures, Engravings and other property.

Building to be erected according to plans approved by the Secretary to the Department of Public Works and the Council of the Asiatic Society.

2. The said building shall be constructed according to such plans and specifications as shall have been approved of and agreed upon by and between the Secretary to the Government of India in the Public Works Department for the time being and the Council of the said Society; and in case the said Secretary and Council shall be unable to agree with reference to any such plans or specifications, the point or points on which they shall so disagree shall be referred to the final decision of the Governor-General of India in Council. Such building shall be completed, so far as to be in a condition to receive the collections mentioned in Section 11 of this Act, within five years from the date of the passing of this Act; and the Government of

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of India shall keep the building in repair, and pay and defray the salaries, allowances and pensions of the officers and servants, and all other expenses connected with the said Indian Museum.

Trustees of the Indian Museum incorporated.

3. The Chief Justice of the High Court of Judicature at Fort William in Bengal,

the Bishop of Calcutta,

the Vice-Chancellor of the University of Calcutta,

the Secretary to the Government of India in the Home Department,

four other persons to be nominated by the Governor-General of India in Council,

the President of the Asiatic Society of Bengal and three other Members of the said Society for the time being, to be nominated by the Council of the said Society,

the Superintendent of the Geological Survey of India,

and their successors, appointed as hereinafter directed and subject to the provisions hereinafter contained, shall be and are hereby constituted a Body Corporate by the name of the "Trustees of the Indian Museum," and shall have a common seal, and by such name shall have perpetual succession; and all the powers of the said Corporation may be exercised so long and so often as there shall exist five Members thereof.

Trustees empowered to receive bequests, donations and subscriptions

4. It shall be lawful for the said Body Corporate to receive bequests, donations and subscriptions of land, buildings, money and any such objects of interest as aforesaid, and to hold the same and to lay out such money for the purposes of the said Indian Museum in the improvement and enlargement of the collections deposited in, presented to or purchased for the said Museum, and all such collections shall become the property of the said Body Corporate for the purposes of their Trusts herein mentioned; and the said Body Corporate shall have the exclusive possession, occupation and control, for the purposes of such Trusts, of the said building

building, other than those portions thereof which upon its completion shall be set apart by the said Body Corporate for the records and offices of the Geological Survey of India, and for the accommodation of the said Society, and the reception of their Library, Manuscripts, Maps, Coins, Busts, Pictures, Engravings and other property.

Ex-officio Members.

5. The persons for the time being holding the offices respectively mentioned in Section 3 of this Act shall be ex-officio Members of the said Body Corporate, and shall cease to be such Members respectively upon ceasing to hold the said offices respectively. In the event of any two of the said offices being held by the same person, it shall be lawful for the Governor-General of India in Council from time to time to nominate such other person as to him may seem fit, to be a Trustee under this Act so long as the said two offices shall be held by one person. Provided that when and so often as the said Chief Justice, Bishop, Vice-Chancellor, Secretary to the Government of India in the Home Department, or Superintendent of the Geological Survey of India shall also be the President of the said Society, the Council of the Society may nominate any other person being a Member of the Society to be a Trustee under this Act so long as such Presidency shall be held by the said Chief Justice, Bishop, Vice-Chancellor, Secretary or Superintendent.

Provision in case of two offices being held by one person.

Power to appoint new Trustees.

6. If any of the said Trustees to be nominated by the Governor-General of India in Council or by the Council of the said Society, or any Trustee appointed as herein provided, shall die or be absent from India for a period exceeding twelve months, or desire to be discharged, or refuse or become incapable to act, then and in every such case it shall be lawful for the Governor-General of India in Council or the Council of the said Society, as the case may be, to appoint a new Trustee in the place of the Trustee so dying or being absent from India or desiring to be discharged or refusing or becoming incapable to act as aforesaid, and every Trustee so appointed shall thereupon become and be a Member of the said Body Corporate as fully and effectually as if he had been hereby constituted a Trustee.

Quorum.

7. At all meetings of the said Body Corporate, five shall be a quorum for the transaction of business and for the exercise of any of the powers conferred upon them by this Act.

8. It

Power to Trustees to make, alter and repeal bye-laws and to appoint officers and servants.

8. It shall be lawful for the said Body Corporate from time to time to make, alter and repeal bye-laws consistent with this Act for the management of the said Museum, for the summoning, holding and adjournment of General and Special Meetings of Members of the Body Corporate, for securing the attendance of the Members at such meetings, for the provision and keeping of minute books and account books, for the compiling of catalogues and for all other purposes necessary for the execution of their Trust. And all officers and servants, salaried or otherwise, employed in the care or management of the Trust property shall be appointed, and may be removed or suspended by the said Body Corporate, subject to such regulations and conditions as such Body Corporate shall think proper, and such officers and servants shall be considered public servants within the meaning of the Indian Penal Code.

Trustees may exchange or sell duplicates.

9. It shall be lawful for the Trustees from time to time to order any duplicates of printed books, medals, coins, specimens of Natural History or other curiosities to be exchanged for manuscripts, books, or other objects of interest, or to direct any such duplicates to be sold and the money to arise from such sale to be laid out in the purchase of manuscripts, books, maps, medals, coins, specimens of Natural History or other curiosities that may be proper for the said Museum.

Trustees shall furnish annual reports and accounts.

10. The said Trustees shall furnish to the Government of India, on or before the first day of December in each year, a report of their several proceedings, acts, and ordinances for the past twelve months, and further shall furnish on or before the same day in each year to such Auditor as the Governor-General of India in Council shall appoint in this behalf accounts of all monies expended by the Trustees during the past twelve months supported by the necessary vouchers. The said report and accounts shall be annually published for general information.

Asiatic Society to remove their collections to the new building.

11. The Council of the said Society shall cause the collections belonging to the Society and illustrative of Indian Archæology and the several branches of Natural History, and all additions that may be made thereto, whether before or after the time next hereinafter mentioned, to be removed to and deposited in the said building, at the expense of the Government of India, as soon as the same shall be completed so far as aforesaid.

12. The

The Asiatic Society to retain their Library, &c., and the Council of the Society to have exclusive possession of the portions of the new building to be set apart for the Society.

12. The said Society shall continue to have the same exclusive property in and control over their said Library, Manuscripts, Maps, Coins, Busts, Pictures and Engravings, which they at present possess, and the Council of the said Society shall have the exclusive possession, occupation and control, for the purposes of the said Society, of those portions of the said building which shall, upon its completion, be set apart for the accommodation of the said Society and the reception of their Library and other property mentioned in Section 4 of this Act.

Collections of Asiatic Society to be kept distinguished in the Museum.

13. Every article in the collections and additions mentioned in Section 11 of this Act shall be marked and numbered and shall (subject to the provisions contained in Sections 9, 14 and 15 of this Act) be kept and preserved in the said Indian Museum with such marks and numbers, and an inventory of such articles shall be made by the said Society, and, on such articles being deposited as aforesaid, one copy of such inventory shall be signed by the said Trustees, and kept by the said Society, and another copy shall be signed by the Council of the said Society, and kept by the said Trustees. All objects taken in exchange under Section 9 of this Act for, and all monies payable on sale under the same Section of, any of such articles, shall be held on trusts and subject to powers and declarations corresponding as nearly as may be with the trusts, powers and declarations by this Act limited and declared concerning the same articles.

Custody of the collections of the Asiatic Society until completion of the new building.

14. Until the said building shall be completed so far as aforesaid, the said collections of the said Society and all additions that may be made thereto in the mean time shall remain in the house in which they are at present, but under the care of such persons as by the Trustees shall be approved and nominated in this behalf, with such salaries and allowances as, subject to the approval of the Government of India, the Trustees shall limit and direct; and the said collections and additions shall be open to all persons desirous to view the same, under such rules as by the said Trustees shall be established, and the said salaries and allowances shall be paid by the Government of India.

15. In

In case of determination of Trust, Asiatic Society may reclaim their collections.

15. In the event of the Trust hereby constituted being determined, all collections then in the said Indian Museum, other than those next hereinafter mentioned, shall become the property of the Government of India, and the collections and additions mentioned in Section 11 of this Act shall become the property of the said Society or their assigns; and the said Society shall vacate the portions of the said building which shall have been set apart as in the twelfth Section of this Act is mentioned; and such portions shall then become the property of the Government of India, anything in this Act contained to the contrary notwithstanding.

Military Orphan Press.—No. 159 L. C.—24-4-66—2,100.

ACT No. XVIII of 1866.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 24th March 1866).

An Act to alter the Customs duty on the export of Saltpetre.

Preamble.

WHEREAS it is expedient to alter the duty of Customs on Saltpetre exported by Sea from any port in British India; It is enacted as follows:—

New Schedule of Export duties substituted for Schedule B to Act No. XXV of 1865

1. In lieu of the Schedule B annexed to Act No. XXV of 1865 *(to amend the Law relating to the duties of Customs on goods exported and imported by Sea)* the following Schedule shall be substituted (that is to say) :—

SCHEDULE B.

Rates of duty to be charged upon goods exported by Sea to any foreign port as defined in The Consolidated Customs' Act from any port in British India.

1.	Bullion and Coin	Free.
2.	Precious Stones and Pearls	"
3.	Horses and other living animals	"
4.	Rum	"
5.	Spirits	"
6.	Tobacco and all preparations thereof	"
7.	Cotton Wool	"
8.	Flax	"
9.	Hemp	"
10.	Books	"
11.	Maps, Prints, and Works of Art.	"
12.	Teak Timber	"
13.	Coal	"
14.	Iron	"
15.	Jute	"
16.	Coffee	"

17. Tea

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17.	Tea		Free.
18.	Sugar	...	"
19.	Wool	... ...	"
20.	Hides and Skins, raw	...	"
21.	Raw Silk and Silk Chussum		"
22.	Grain and Pulse, two annas the Indian maund	of forty seers of eighty	"
23.	Indigo, three Rupees the Indian maund	tolahs to the seer.	
24.	Lac Dye and Shell Lac,	four per cent. *ad valorem*.	
25	All country articles not enumerated or named above,	three per cent. *ad valorem*.	

This Act to be read with Act No. XXV of 1865

2. This Act shall be read with, and taken as part of, Act No. XXV of 1865.

Military Orphan Press.—No. 146 L. C.—6.1.66.—2400

ACT No. XIX of 1866.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 24th March 1866).

An Act to enhance the price of Salt manufactured and sold under the orders of the Governor of the Presidency of Fort Saint George in Council.

Preamble

WHEREAS it is expedient to enhance the price of Salt manufactured and sold under the orders of the Governor of the Presidency of Fort Saint George in Council for consumption in that Presidency; It is enacted as follows :—

New Section substituted for Section 43 of Act No VI of 1844

1. Section XLIII of Act No. VI of 1844 is hereby repealed, and in lieu thereof the following Section shall be substituted (that is to say) :—

XLIII. The price to be paid to the Government of the Presidency of Fort Saint George, for Salt manufactured and sold under the orders of the Governor of the Presidency in Council for consumption within the Territories subordinate to the same Presidency shall, from and after the passing of this Act, be one Rupee and eleven annas for every three thousand two hundred tolahs weight of Salt.

This Act to be read with Act No VI of 1844

2 This Act shall be read with, and taken as part of, Act No. VI of 1844.

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Military Orphan Press —No 144 L C —26 4 66 —2 400

ACT No. XXI of 1866.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor-General on the 2nd April* 1866).

An Act to legalize, under certain circumstances, the dissolution of marriages of Native Converts to Christianity.

Preamble.

WHEREAS it is expedient to legalize, under certain circumstances, the dissolution of marriages of Native Converts to Christianity deserted or repudiated, on religious grounds, by their wives or husbands; It is enacted as follows :—

Short title.

1. This Act may be cited as "The Native Converts' Marriage Dissolution Act, 1866.

Commencement of Act.

2. This Act shall commence and take effect on and from the first day of May 1866,

3. In this Act—

Interpretation of terms. "Native Husband."

"Native Husband" shall mean a married man domiciled in British India, who shall have completed the age of sixteen years, and shall not be a Christian, a Muhammadan nor a Jew :

"Native Wife."

"Native Wife" shall mean a married woman domiciled in British India, who shall have completed the age of thirteen years, and shall not be a Christian, a Muhammadan nor a Jewess :

"Native Law."

"Native Law" shall mean any law, or custom having the force of law, of any persons domiciled in British India other than Christians, Muhammadans and Jews :

"Month" and "year."

"Month" and "year" shall respectively mean month and year according to the British calendar :

"High Court."

"High Court" shall mean the highest Civil Court of appeal in any place to which this Act extends :

And

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And, unless there be something repugnant in the subject or context, words importing the singular number shall include the plural, and words importing the plural number shall include the singular.

Number.

4. If a Native Husband change his religion for Christianity, and if in consequence of such change his Native Wife, for the space of six continuous months, desert or repudiate him, he may sue her for conjugal society.

Convert deserted by his wife on religious grounds may sue for conjugal society

5. If a Native Wife change her religion for Christianity, and if in consequence of such change her Native Husband, for the space of six continuous months, desert or repudiate her, she may sue him for conjugal society.

Convert deserted by her husband on religious grounds may sue for conjugal society

6. If the respondent, at the time of commencement of such suit, reside within the local limits of the ordinary original Civil jurisdiction of any of the High Courts of Judicature, the suit shall be commenced in such Court: otherwise it shall be commenced in the principal Civil Court of original jurisdiction of the District in which the defendant shall reside at the commencement of the suit.

Court in which suit shall be brought.

7. The suit shall be commenced by a petition in the form in the first Schedule to this Act, or as near thereto as the circumstances of the case will allow. The statements made in the petition shall be verified by the petitioner in the manner required by law for the verification of plaints; and the petition shall bear a stamp of two rupees, and may be amended by permission of the Court.

Suit to be commenced by verified petition

8. A copy of the petition shall be served upon the respondent, and the Court shall thereupon issue a citation under the seal of the Court and signed by the Judge.

On service of petition, citation issued to respondent

9. In ordinary cases the citation shall be in the form in the second Schedule to this Act, or as near thereto as the circumstances of the case will allow. But where the respondent is exempt by law from personal appearance in Court, or where the Judge shall so direct, the citation shall be in the form in the third Schedule to this Act, or as near thereto as the circumstances of the case will allow.

Form of citation

10. A copy of the citation sealed with the seal of the Court shall be served on the respondent; and the provisions of the Code of Civil Procedure as to the service and endorsement of summonses shall apply, *mutatis mutandis*, to citations under this Act.

Service of citation.

11. If

Procedure where respondent does not obey citation.

11. If the respondent shall not obey such citation, and comply with every other requirement made upon her or him under the provisions of this Act, she or he shall be liable to punishment under Section 171 of the Indian Penal Code.

Points to be proved on appearance of petitioner.

12. On the day fixed in the citation the petitioner shall appear in Court, and the following points shall be proved :—

(1.) The identity of the parties :

(2.) The marriage between the petitioner and the respondent :

(3.) That the male party to the suit has completed the age of sixteen years, and that the female party to the suit has completed the age of thirteen years :

(4.) The desertion or repudiation of the petitioner by the respondent.

(5.) That such desertion or repudiation was in consequence of the petitioner's change of religion ;

(6.) And that such desertion or repudiation had continued for the six months immediately before the commencement of the suit.

First interrogation of respondent.

13. The respondent, if such points be proved to the satisfaction of the Judge, shall thereupon be asked whether she or he refuses to cohabit with the petitioner, and, if so, what is the ground of such refusal. In ordinary cases such interrogation and every other interrogation prescribed by this Act shall be made by the Judge, but when the respondent is exempt by law from personal appearance in Court, or when the Judge shall, in his discretion, excuse the respondent from such appearance, the interrogations shall be made by Commissioners acting under such Commission as hereinafter mentioned.

Interrogations by Judge may be public or private.

14. Every interrogation mentioned in this Act and made by the Judge may, at the discretion of the Judge, take place in open Court or in his private room. If any such interrogation take place in open Court, the Judge may, so long as it shall continue, exclude from the Court all such persons as he shall think fit to exclude.

15. If

15. If the respondent be a female, and in answer to the interrogatories of the Judge or Commissioners, as the case may be, shall refuse to cohabit with the petitioner, the Judge, if upon consideration of the respondent's answers and of the facts which may have been proved by the petitioner he shall be of opinion that the ground for such refusal is the petitioner's change of religion, shall make an order adjourning the case for a year, and directing that, in the interim, the parties shall, at such place and time as he shall deem convenient, have an interview of such length as the Judge shall direct, and in the presence of such person or persons (who may be a female or females) as the Judge shall select, with the view of ascertaining whether or not the respondent freely and voluntarily persists in such refusal.

Procedure when female respondent refuses to cohabit with petitioner.

Adjournment for a year.

Interview.

16. At the expiration of such adjournment the petitioner shall again appear in Court and shall prove that the said desertion or repudiation had continued up to the time last hereinbefore referred to; and if the points mentioned in the twelfth and this Section of this Act shall be proved to the satisfaction of the Judge, and if the respondent on being interrogated by the Judge or Commissioners, as the case may be, again refuse to cohabit with the petitioner, the respondent shall be taken to have finally deserted or repudiated the petitioner, and the Judge shall, by a decree under his hand and sealed with the seal of his Court, declare that the marriage between the parties is dissolved.

Procedure on expiration of adjournment.

Interrogation of respondent.

Decree.

17. If the respondent be a male, and in answer to the interrogatories of the Judge or Commissioners, as the case may be, shall refuse to cohabit with the petitioner, the Judge, if upon consideration of the respondent's answers and of the facts which may have been proved by the petitioner he shall be of opinion that the ground for such refusal is the petitioner's change of religion, shall adjourn the case for a year. At the expiration of such adjournment, the petitioner shall again appear in Court; and if the respondent on being interrogated by the Judge or Commissioners, as the case may be, again refuse to cohabit with the petitioner, the Judge shall thereupon pass such a decree as last aforesaid: Provided that if the petitioner shall so desire (but not otherwise), the proceedings in the suit shall, *mutatis mutandis*, be the same as in the case of a female respondent.

Decree in case of male respondent refusing to cohabit on the ground of petitioner's change of religion.

Proviso.

18. Notwithstanding

Decree if respondent so refuse in the case of an unconsummated marriage, either party being *impubes* at time of marriage

18. Notwithstanding anything hereinbefore contained, if it shall appear at any stage of the suit that both or either of the parties had not attained puberty at the date of their marriage, and that such marriage has not been consummated; and if, in answer to the interrogatories made pursuant to the thirteenth Section of this Act, the respondent shall refuse to cohabit with the petitioner, and allege, as the ground for such refusal, that the petitioner has changed his or her religion, the Judge shall thereupon pass such a decree as last aforesaid

Liberty to parties to marry again

19. When any decree dissolving a marriage shall have been passed under the provisions of this Act, it shall be as lawful for the respective parties thereto to marry again as if the prior marriage had been dissolved by death, and the issue of any such re-marriage shall be legitimate, any Native law to the contrary notwithstanding. Provided always that no minister of religion shall be compelled to solemnize the marriage of any person whose former marriage may have been dissolved under this Act, or shall be liable to any suit or penalty for refusing to solemnize the marriage of any such person.

Judge may order Commission to issue for examination of exempted persons

20. In suits instituted under this Act, the Judge shall order a Commission to issue to such persons, whether males or females or both, as he shall think fit, for the examination on interrogatories or otherwise of any persons so exempt as aforesaid. The provisions of the Code of Civil Procedure shall, so far as practicable, apply to Commissions issued under this Section.

Proof of the marriage and the desertion or repudiation of petitioner in consequence of conversion

21. At any stage of a suit instituted under this Act, cohabitation as man and wife shall be sufficient presumptive evidence of the marriage of the parties, and proof of the respondent's refusal or voluntary neglect to cohabit with the petitioner, after his or her change of religion and after knowledge thereof by the respondent, shall be sufficient evidence of the respondent's desertion or repudiation of the petitioner, and shall also be sufficient evidence that such desertion or repudiation, was in consequence of the petitioner's change of religion, unless some other sufficient cause for such desertion or repudiation be proved by the respondent.

Provisions of Civil Procedure Code as to witnesses to apply in suits under this Act.

22. The provisions of the Code of Civil Procedure as to the summoning and examination of witnesses, shall apply in suits instituted under this Act.

23. The

Dismissal of suit if either party is under the age required by the Act, or if the parties are cohabiting, or the respondent is willing to cohabit

23. If at any stage of the suit it be proved that the male party to the suit is or was at the institution thereof under the age of sixteen years, or that the female party to the suit is or was at the same time under the age of thirteen years, or that the petitioner and the respondent are cohabiting as man and wife, or if the Court is satisfied by the evidence adduced that the respondent is ready and willing so to cohabit with the petitioner, the Court shall pass a decree dismissing the suit and stating the ground of such dismissal.

Revival of suit after such dismissal

24. If at any time within twelve months after a decree dismissing the suit upon any of the grounds mentioned in the last preceding Section, the respondent again desert or repudiate the petitioner upon the ground of his or her change of religion, the suit may be revived by summoning the respondent; and upon proof of the former decree and of such renewed repudiation or desertion, the suit shall re-commence at the stage at which it had arrived immediately before the passing of such decree; and, after the proofs, interrogations, interview and adjournment which may then be requisite under the provisions hereinbefore contained, the Judge shall pass a decree of the nature mentioned in the sixteenth Section of this Act.

Petitioner's cruelty or adultery to bar the suit

25. If at any stage of the suit it be proved that the respondent has deserted or repudiated the petitioner solely or partly in consequence of the petitioner's cruelty or adultery, the Court shall pass a decree dismissing the suit and stating the ground of such dismissal. A suit dismissed under this Section shall not be revived.

Male petitioner's cohabitation with one of several wives to bar the suit

26. If the petitioner, being a male, has at the time of the institution of the suit two or more wives, he shall make them all respondents; and if at any stage of the suit it be proved that he is cohabiting with one of such wives as man and wife, or that any one of such wives is ready and willing so to cohabit with him, the Court shall pass a decree dismissing the suit and stating the ground of such dismissal. The provisions as to revival contained in the twenty-fourth Section of this Act shall apply, *mutatis mutandis*, to a suit dismissed under this Section.

27 A dissolution

Dissolution of marriage not to affect status or rights of children.

27. A dissolution of marriage under the provisions of this Act shall not operate to deprive the respondent's children (if any) by the petitioner of their status as legitimate children, or of any right or interest which they would have had, according to the Native law applicable to them, by way of maintenance, inheritance, or otherwise, in case the marriage had not been so dissolved as aforesaid.

Power to Court to award alimony

28. If a suit be commenced under the provisions of this Act, and it appear to the Court that the wife has not sufficient separate property to enable her to maintain herself suitably to her station in life and to prosecute or defend the suit, the Court may, pending the suit, order the husband to furnish the wife with sufficient funds to enable her to prosecute or defend the suit, and also for her maintenance pending the suit. If the suit be brought by a husband against a wife, the Court may by the decree order the husband to make such allowance to his wife for her maintenance during the remainder of her life as the Court shall think just, and having regard to the condition and station in life of the parties. Any allowance so ordered shall cease from the time of any subsequent marriage of the wife.

No appeal under this Act; but the Judge may state case raising question whether conversion has dissolved marriage

29. No appeal shall lie against any order or decree made or passed by any Court in any suit instituted under this Act; but if, at any stage of the suit, the respondent shall allege by way of defence that the marriage between the parties has been dissolved by the conversion of the petitioner, and that consequently the petitioner is not a Native husband or a Native wife (as the case may be) within the meaning of this Act, the Judge, if he shall entertain any doubt as to the validity of such defence, shall, either of his own motion or on the application of the respondent, state the case and submit it with his own opinion thereon for the decision of the High Court

Case to state necessary facts and documents and suit to be stayed

30. Every such case shall concisely set forth such facts and documents as may be necessary to enable the High Court to decide the questions raised thereby, and the suit shall be stayed until the judgment of such Court shall have been received as hereinafter provided.

Case to be decided by three Judges

31. Every such case shall be decided by at least three Judges of the High Court, if such Court be the High Court at any of the Presidency Towns; and the petitioner and respondent may appear and be heard in the High Court in person or by Advocate or Vakeel.

32. If

32. If the High Court shall not be satisfied that the statements contained in the case are sufficient to enable it to determine the questions raised thereby, the High Court may refer the case back to the Judge by whom it was stated, to make such additions thereto or alterations therein as the High Court may direct in that behalf.

High Court may refer case to Judge for additions or alterations.

33. It shall be lawful for the High Court upon the hearing of any such case to decide the questions raised thereby, and to deliver its judgment thereon containing the grounds on which such decision is founded; and it shall send to the Judge by whom the case was stated a copy of such judgment under the seal of the Court and the signature of the Registrar, and the Judge shall, on receiving the same, dispose of the case conformably to such judgment.

High Court may decide question raised, and Judge shall dispose of case accordingly.

34. Nothing contained in this Act or in Acts Nos. XXV of 1864 and V of 1865 shall be taken to render invalid any marriage of a Native convert to Roman Catholicism if celebrated in accordance with the rules, rites, ceremonies and customs of the Roman Catholic Church; and no Clergyman of such Church shall be liable to any suit or penalty under the provisions of either of the two Acts last hereinbefore mentioned, for solemnizing any such marriage.

Saving of Roman Catholic marriages.

35. This Act shall extend to all the territories that are or shall become vested in Her Majesty or Her successors by the Statute 21 & 22 Vic., cap. 106, entitled "An Act for the better Government of India," ~~except the Settlement of Prince of Wales' Island, Singapore and Malacca.~~ But it may be extended, with the consent of the Governor-General of India in Council, by order of the Governor of such Settlement to all or any part of the territory subject to his Government; and he may, with such consent as aforesaid, determine the Court in which suits against residents in such territory shall be commenced under the provisions of this Act. In case of such extension, if the Indian Penal Code shall not then apply to the said Settlement, the respondent's personal appearance pursuant to this Act may be enforced by such procedure as the said Governor, with such consent as aforesaid, shall provide in that behalf.

Extent of Act.

The

ACT No. XXI OF 1866.

THE FIRST SCHEDULE.

Form of Petition.

To the Judge of the Civil Court of

The day of 18

The petition of A. B. of

Sheweth:—

1. That your petitioner was born on or about the day of 18

2. That your petitioner was on the day of in the year 18 lawfully married to C. D. at

3. That the said C. D. is now of the age of years or thereabouts.

4. That after his said marriage, your petitioner lived and cohabited with his said wife at aforesaid until the day of 18

5. That previous to the day of 18 your petitioner changed his religion for Christianity, and that on such day he was baptized and became a member of the Church of

6. That on the day of 18 [*at least six months prior to the date of the petition*], the said C. D. deserted your petitioner, and has not since resumed cohabitation with him.

7. That such desertion was in consequence of your petitioner's said change of religion.

8. That there is no collusion nor connivance between your petitioner and the said C. D.

Your petitioner therefore prays that your Honour will order the said C. D. to live and cohabit with your petitioner, or declare that your petitioner's marriage is dissolved.

A. B.

Form of verification.

I, A. B., the petitioner named in the above petition, do declare that what is stated therein is true to the best of my information and belief.

THE SECOND SCHEDULE.

Form of Citation in ordinary cases.

To C. D. of

Whereas A. B. of claiming to have been lawfully married to you the said C. D. has filed his [*or* her] petition against you in the Civil Court of alleging that you the said C. D. have deserted him [*or* her] for six months in consequence of his [*or* her] having changed his [*or* her] religion for Christianity, and praying that, unless you consent

to live and cohabit with him [*or* her], it may be declared that his [*or* her] marriage is dissolved: Now this is to command you that, at the expiration of days [*at least one month*] from the date of the service of this on you, you do appear in the said Court then and there to make answer to the said petition, a copy whereof, sealed with the seal of the said Court, is herewith served upon you.

And take notice that in default of your so appearing, you will be liable to punishment under Section 174 of the Indian Penal Code.

Dated the day of 18

(Signed) E. F.

Judge of the Civil Court of

Indorsement to be made after service.

This citation was duly served by G. H. on the within named C. D. of at on the day of 18

(Signed) G. H.

THE THIRD SCHEDULE.

Form of Citation in case of respondent exempt from appearance in Court.

To C. D. of

Whereas A. B. of claiming to have been lawfully married to you the said C. D. has filed his [*or* her] petition against you in the Civil Court of alleging that you the said C. D. have deserted him [*or* her] for six months in consequence of his [*or* her] having changed his [*or* her] religion for Christianity, and praying that, unless you consent to cohabit with him [*or* her], it may be declared that his [*or* her] marriage is dissolved. Now this is to command you that, at the expiration of days [*at least one month*] from the service of this on you, you do hold yourself in readiness to answer and do answer such interrogatories as may be put to you by Commissioners duly authorised in that behalf under a Commission issued by this Court, in reference to the said petition, a copy whereof, sealed with the seal of the said Court, is herewith served upon you.

And take notice that in default of your so holding yourself in readiness and answering such interrogatories, you will be liable to punishment under Section 174 of the Indian Penal Code.

Dated the day of 18

(Signed) E. F.

Judge of the Civil Court of

Indorsement to be made after service.

This citation was duly served by G. H. on the within named C. D. of at on the day of 186

(Signed) G. H.

ACT No. XXII OF 1866.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 2nd April 1866).

An Act to extend the Indian Marriage Act, 1865, to the Hyderabad Assigned Districts and the Cantonments of Secunderabad, Trimungerry and Aurungabad.

Preamble.

WHEREAS it is expedient to extend the provisions of the Indian Marriage Act, 1865, to the Christian British subjects of Her Majesty within the Hyderabad Assigned Districts and the Cantonments of Secunderabad, Trimungerry and Aurungabad; It is enacted as follows:—

Indian Marriage Act, 1865, to extend to Christian British subjects in the Hyderabad Assigned Districts, &c.

1. From and after the passing of this Act, the Indian Marriage Act, 1865, shall, so far only as regards Christian British subjects of Her Majesty, extend to the Hyderabad Assigned Districts and the Cantonments of Secunderabad, Trimungerry and Aurungabad.

PRICE ONE ANNA.

Military Orphan Press.—No. 154 L. C.—27-4-66—2,200.

ACT No. XXIII of 1866.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 17th May 1866).

An Act to correct two clerical errors in the Letters Patent for the High Court of Judicature for the Presidency of Bombay.

Preamble

WHEREAS the twenty-second Section of the Letters Patent for the High Court of Judicature for the Presidency of Bombay, dated the 28th December 1865, is as follows:—"And we do further ordain that the said High Court of Judicature at Bombay shall have ordinary original Criminal jurisdiction within the local limits of its ordinary original Civil jurisdiction, and also in respect of all *such* persons beyond such limits over whom the said High Court of Judicature at *Fort William in Bengal* shall have Criminal jurisdiction at the date of the publication of these presents;" And whereas it is expedient to correct the two clerical errors in such Section which are hereinbefore indicated by italics; It is hereby enacted as follows:—

Clause substituted for Section 22 of revised Letters Patent of High Court of Bombay.

1. In lieu of the said recited Section, the following shall be substituted:—

"And we do further ordain that the said High Court of Judicature at Bombay shall have ordinary original Criminal jurisdiction within the local limits of its ordinary original Civil jurisdiction, and also in respect of all persons beyond such limits over whom the said High Court of Judicature at Bombay shall have Criminal jurisdiction at the date of the publication of these presents."

PRICE ONE ANNA.

Military Orphan Press—No 4 L C—20 5-66—2,000

ACT No. XXIV OF 1866.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor General on the* 11*th July* 1866).

An Act to amend the procedure of the High Court of Judicature for the North-Western Provinces of the Presidency of Fort William.

Preamble.

WHEREAS it is expedient to amend the procedure of the High Court of Judicature for the North-Western Provinces of the Presidency of Fort William in the exercise of its Original Criminal, and its Civil, Intestate and Testamentary Jurisdictions ; It is hereby enacted as follows :—

Interpretation Clause.

1. In this Act, unless there be something repugnant in the subject or the context—

"High Court."

"High Court" denotes Her Majesty's High Court of Judicature for the North-Western Provinces of the Presidency of Fort William :

"Lieutenant-Governor."

"Lieutenant-Governor" denotes the Lieutenant-Governor for the time being of the said Provinces :

"Magistrate."

"Magistrate" denotes any person exercising any of the powers of a Magistrate under the Code of Criminal Procedure:

"Registrar"

"Registrar" includes, besides such Officer, any Officer specially appointed by the Lieutenant-Governor to discharge the functions given by this Act to the Registrar :

Number Gender

Words in the singular include the plural, and words denoting the masculine gender include females.

Charge to be delivered with record of preliminary enquiry.

2. Any Justice of the Peace or Magistrate within or without the said Provinces, before whom any European British subject shall be brought for an offence committed within the said Provinces, or for an offence which under or by virtue of any law or order

PRICE TWO ANNAS.

order made or issued by the Governor General of India in Council shall have been made triable by the High Court, and who shall commit or hold to bail such person for trial shall, together with the record of the preliminary enquiry and all recognizances and other documents, and any weapon or article of property connected with the case, and translations into English of any writings not in that language, deliver to the Registrar of the High Court a written instrument of charge signed by him stating for what offence such person is so committed or held to bail.

High Court to consider, and, if it will, to amend, alter or add to the charge

Charge with amendments, alterations or additions (if any) to be recorded.

3. The High Court, or any Officer specially authorized by the High Court in this behalf, shall consider the charge, and may, if it appear necessary or expedient so to do, amend, alter or add to the same. The charge, with such amendments, alterations or additions, if any, shall be recorded in the High Court, and the person charged shall be entitled to have a copy of such charge with such amendments, alterations or additions (if any) gratis.

Accused to have copies of examinations

4. The person charged shall also, if he demands them at a reasonable time before the trial, be furnished with copies of the depositions of the witnesses upon whose depositions he has been so committed or held to bail, on payment of a reasonable sum for the same, not exceeding one anna for each folio of ninety words.

Effect of charge

5. Upon charges recorded as aforesaid, persons committed to custody or held to bail shall be deemed to have been brought before the High Court in due course of law, and (subject to the provisions contained in the Code of Criminal Procedure as to the amendment and alteration of charges, and subject also to the provisions of the next following Section) shall be tried upon the charges so recorded.

High Court may order an unsustainable charge not to be proceeded with.

Effect of such order

6. When any such charge shall have been recorded in the High Court as aforesaid, and shall at any time before the commencement of the trial of the person charged appear to the High Court to be clearly unsustainable, an entry to that effect may be made on the charge by a Judge of the Court. Such entry shall have the effect of staying proceedings upon the charge, but shall not operate as an acquittal of the person charged, unless and until three years from the time of making the entry shall have elapsed, at the expiration

expiration of which period, if no fresh charge have been brought on the same matter, he shall be considered as having been acquitted.

Places of holding sittings.

7. The High Court shall ordinarily hold its sittings at such place as the Lieutenant-Governor shall direct in that behalf: but the High Court or any Division of the High Court may from time to time, with the approval of the Lieutenant-Governor, hold sittings at such other places in the said Provinces as shall seem convenient. Due notice shall be given beforehand in the Official Gazette of all sittings intended to be held for the trial of cases in the exercise of the original Criminal jurisdiction of the Court.

High Court may order European British subjects committed in certain districts in certain seasons of the year, to be tried at a particular place and confined in a particular jail.

8. It shall be lawful for the High Court to direct that all European British subjects committed or bailed for trial within certain specified districts, or during certain specified periods of the year, shall be tried at the usual place of sitting of the Court, or to direct that they shall be tried at a particular place named; and also to order that such European British subjects shall, if not bailed, be committed for intermediate custody to a particular jail being one of the jails appointed by the Government for the reception of such prisoners.

Procedure on direction of High Court as to trial.

9. If the trial shall be directed to take place at the usual place of sitting of the Court, or if no general direction shall have been given under the last preceding Section, the Justice of the Peace or Magistrate shall bind over the person charged to appear and take his trial at such usual place of sitting, or shall commit him to the jail at such place. If the High Court shall direct that the person charged be tried elsewhere than in its usual place of sitting, the Justice of the Peace or Magistrate shall bind him over to appear and take his trial in the place directed, or (as the case may be) shall, if necessary, cause him to be removed to the Criminal jail of or nearest to the place at which such person is directed to be tried, and the Officer in charge of such Criminal jail shall keep such person in safe custody until discharged in due course of law. The High Court may direct that the person charged shall be admitted to bail, or that the bail required by the Justice of the Peace or Magistrate shall be reduced.

Trials under Section 2 to be by Jury.

10. All trials under Section 2 of this Act shall be by Jury.

11. Whenever

Summoning of Jurors to serve on trials.

11. Whenever the High Court shall have given notice of its intention to hold sittings at any place for the exercise of its original Criminal jurisdiction, the Court of Session at such place shall take and cause to be taken the measures prescribed by Sections 336 to 340, both inclusive, of the Code of Criminal Procedure for the summoning of Jurors; and in addition to the persons so summoned as Jurors, the said Court of Session shall, if it shall think needful after communication with the Commanding Officer, cause to be summoned such number of Commissioned and Non-Commissioned Officers in the Military Service, resident within ten miles of its place of sitting, as the Court shall consider to be necessary to make up the Juries required for the trial of European British subjects charged with offences before the High Court as aforesaid. All Commissioned and Non-Commissioned Officers so summoned shall be liable to serve on such Juries notwithstanding anything contained in the Code of Criminal Procedure. But no Commissioned or Non-Commissioned Officer shall be summoned whom his Commanding Officer shall desire to have excused on the ground of urgent military duty, or for any other special military reason. The Juries for the trial of European British subjects as aforesaid, shall be formed in the manner required by the Code of Criminal Procedure and by this Act from the persons summoned under the said Sections of the Code of Criminal Procedure, and from the Commissioned and Non-Commissioned Officers summoned as aforesaid, or, if no such Officer have been summoned, then solely from the persons summoned under the same Sections.

Military men not exempt

Jury for trial of European British subjects.

12. If any European British subject charged as aforesaid, shall so require before the Jury shall be empanelled, the majority of the Jurors shall consist of Europeans or Americans, or both Europeans and Americans.

Number of Jury requisite for verdict of guilty.

13. On every trial of an European British subject under this Act, the Jury shall consist of twelve persons, and unanimity or a majority of not less than nine with the concurrence of the presiding Judge, shall be necessary for a verdict of guilty. In default of such unanimity or of such majority and concurrence, the prisoner shall be acquitted.

Portions of Section 380 of Criminal Procedure Code not to apply to sentences by High Court.

14. So much of Section 380 of the Code of Criminal Procedure as requires the confirmation by the Sudder Court of sentences of death passed by a Court of Session, and so much of the same Section as requires from the Court a statement of the grounds on which a person convicted of an offence made punishable

by

by death by the Indian Penal Code has been sentenced to a punishment other than death, shall not apply to sentences by the High Court passed in the exercise of its original Criminal jurisdiction.

Portion of 26th Chapter of Criminal Procedure Code not to apply to sentences of High Court.

15. So much of the 26th Chapter of the Code of Criminal Procedure as requires judgment to be passed by a Criminal Court in any particular form, and as requires that the sentence or finding shall be recorded in any particular form, shall not apply to judgments, sentences or findings in trials before the High Court, acting in the exercise of its original Criminal jurisdiction, but the High Court shall pass judgment and shall record or cause to be recorded the sentence and finding in such form as it shall think proper.

Power to reserve for High Court any question of law or evidence.

16. When any person has been convicted of an offence before a Judge of the High Court, acting in the exercise of its original Criminal jurisdiction, the Judge, if he think proper, may reserve for the decision of a Court consisting of such Judge and one or more other Judge or Judges of the High Court any question of law or of the admissibility of evidence which has arisen in the course of the trial of such person. If the Judge reserve no such question, he shall forward the prisoner with a copy of his sentence and a warrant for the execution of the same to the Magistrate or other Officer in charge of the jail of the district or place in which the trial was held, and on the receipt of the warrant such Magistrate or other Officer shall proceed as provided in Section 385 of the Code of Criminal Procedure. If the Judge reserve any question of law or of the admissibility of evidence, the person convicted shall, pending the decision thereon, be remanded to jail. If the decision of the High Court be adverse to the person convicted, the Court shall send a copy of its sentence and a warrant for the execution of the same to the Magistrate or other Officer in charge of the jail to which the prisoner shall have been remanded, and such Magistrate or other Officer shall proceed as provided in the same Section.

Procedure where no such question is reserved.

Save as aforesaid Code of Criminal Procedure to apply to Juries, trials, sentences and executions under this Act.

17. Save as is hereinbefore otherwise provided, the Code of Criminal Procedure shall apply to the constitution and formation of Juries for the purpose of trials before the High Court, acting in the exercise of its original Criminal jurisdiction, and to trials before such Court, and to sentences by such Court, and to the carrying into execution of such sentences.

18. The

18. The operation of the following Sections of Act No. VIII of 1859, namely, Sections 184, 185, 186 and 359, relating to the manner in which the judgments of the Courts of Civil Judicature are to be recorded, and so much of the same Act as extends the provisions of the same Sections to the orders of the Courts of Civil Judicature not being judgments or decrees, is hereby suspended in the High Court; and the High Court, and every Division Court and Judge thereof, shall record their and his judgments and the orders passed by them and him respectively in such manner as the High Court shall by any general rule or rules from time to time direct.

Parts of Act VIII of 1859 suspended in High Court.

High Court to record its judgments and orders as it shall by rule direct.

19. The High Court may by its own rules fix the time within which appeals from or applications for review of any judgments, orders or decrees made by any Division Court, or by any Judge or Judges of the said High Court in the exercise of its original jurisdiction, shall be preferred.

Court may fix time for appealing from judgments, &c., of its own Judges or Division Courts.

20. Whenever it shall appear necessary to a Judge of the High Court that a decree made in the exercise of the original Civil jurisdiction of the said Court ought to be enforced before the amount of the costs incurred in the suit can be ascertained by taxation, the Judge may order that the decree shall be executed forthwith except as to so much thereof as relates to the costs, and, as to so much thereof as relates to the costs, that the same may be executed as soon as the amount of the costs shall be ascertained by taxation. The High Court may appoint the Registrar to be Taxing Officer.

Execution may issue in certain cases before the amount due for costs has been ascertained, and execution for costs may issue subsequently when their amount is ascertained.

21. Whenever anything is directed by the said Act No. VIII of 1859 to be done by or through a Pleader, the High Court, or any Judge thereof in the exercise of its original Civil jurisdiction, may authorize such act to be done by or through an Attorney-at-law of the High Court: Provided that no Attorney shall be authorized under the provisions of this Section to plead in the High Court or in any Division Court for any other person.

Court in the exercise of its original Civil jurisdiction may, in certain cases, authorize acts required by the Code of Civil Procedure to be done by a Pleader, to be done by an Attorney

Proviso.

22. The

Testamentary and Intestate Procedure.

22. The procedure in all cases which shall be brought before the High Court in the exercise of its original Testamentary and Intestate jurisdiction, shall be regulated as far as the circumstances of the case will admit by the rules of procedure laid down in the Indian Succession Act, 1865, whether the Act itself applies to the case or not, and in cases to which such rules are inapplicable the procedure shall be regulated by the Code of Civil Procedure.

Short Title.

23. This Act shall be called "The High Court (North-Western Provinces) Act, 1866."

Military Orphan Press.—No. 12 L. C.—6-8-66.—2,500.

ACT No. XXV of 1866.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor General on the* 11*th July* 1866).

An Act to transfer to the Government of India certain securities and monies deposited in the High Courts of Judicature at Fort William, Madras and Bombay and in the Supreme Court of the Straits' Settlement, and the proceeds of certain estates in the charge of the Administrator General of Bengal.

Preamble.

WHEREAS it is expedient that certain securities and sums of money deposited in the High Courts of Judicature at Fort William, Madras and Bombay and in the Supreme Court of the Straits' Settlement, in the course of suits in the said Courts ~~or in the late Supreme Courts at Calcutta, Madras and Bombay~~, respectively, and ~~now or hereafter~~ appearing to have been in such deposit for a period of twenty years or upwards, without any claim thereto having been made and allowed during that period, should be transferred and paid to the Government of India for the general purposes of Government: And whereas it is also expedient that the net proceeds of all estates administered under the orders of the said Supreme Court of the Straits' Settlement, or in the official charge of the Administrator General of Bengal, and now or hereafter appearing from the official books and accounts to have been in official custody for a period of fifteen years or upwards, without any claim thereto having been made and allowed during that period, should be transferred and paid to the Government of India for the purposes aforesaid; It is hereby enacted as follows:—

Monies deposited in High Courts and Supreme Court Straits' Settlement, and unclaimed for twenty years, to be transferred to Government.

1. All securities and sums of money deposited in the said High Courts or Supreme Court of the Straits' Settlement, or any of them, in the course of suits in any of the said Courts ~~or of the late Supreme Courts of Calcutta, Madras and Bombay~~, and ~~now or hereafter~~ appearing to have been in such deposit for a period of twenty years or upwards, without any claim thereto having been made and allowed during that period, shall be transferred and paid to the Government of India for the general purposes of Government.

2. The

PRICE TWO ANNAS.

Proceeds of estates administered under order of Supreme Court Straits' Settlement, or in charge of Administrator General of Bengal, and unclaimed for fifteen years, to be transferred to Government.

2. The net proceeds of all estates administered under the orders of the said Supreme Court of the Straits' Settlement, or in the official charge of the Administrator General of Bengal, and now or hereafter appearing from the official books and accounts to have been in official custody for a period of fifteen years or upwards, without any claim thereto having been made and allowed during that period, shall be transferred and paid to the Government of India for the general purposes of Government.

Transfer not to be made pending suits.

3. Nothing in this Act shall authorize any transfer or payment of any such securities, sums of money or proceeds as aforesaid, pending any suit already instituted or which shall hereafter be instituted in respect thereof.

Repayment on subsequent establishment of claim.

4. If any claim shall hereafter be made to any part of the securities, monies or proceeds which shall be transferred and paid to the Government of India under the provisions of this Act, and if such claim shall, in the case of securities and monies transferred and paid under the first Section of this Act, be established to the satisfaction of the High Court or Supreme Court, as the case may be, from which the transfer shall have been made, and, in the case of proceeds transferred and paid under the second Section of this Act by order of the Supreme Court of the Straits' Settlement, be established to the satisfaction of the same Court, and, in the case of proceeds transferred and paid under the same Section by the Administrator General of Bengal for the time being, be established to the satisfaction of the said Administrator General and the Accountant General to the Government of Bengal respectively, the Government of India shall pay to the claimant the amount of the principal so transferred and paid as aforesaid, or so much thereof as shall appear to be due to the claimant. If any such last-mentioned claim shall not be established to the satisfaction of the said Administrator General and Accountant General, the claimant may apply by petition to the High Court of Judicature at Fort William, on its original side, against the Government of India and the Administrator General of Bengal for the time being, and after taking evidence, either orally or on affidavit in a summary way, as the said Court shall think fit, the said Court shall make such order on the petition for the payment of such portion of the principal sum as justice shall require, and such order shall be binding on all parties to the suit.

Military Orphan Press.—No 18 L C —30-7-66.—2,000

ACT No. XXVI OF 1866.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor General on the* 12*th October* 1866.)

An Act to legalize the rules made by the Chief Commissioner of Oudh for the better determination of certain claims of subordinate proprietors in that Province.

Preamble.

WHEREAS rules have been made by the Chief Commissioner of Oudh for the better determination of certain claims by persons possessed of subordinate rights of property in the territories subject to his administration; and whereas it is expedient that such rules should have the force of law; It is hereby enacted as follows:—

Rules as to sub-settlements contained in the Schedule to have the force of law.

1. The rules for determining the conditions under which persons possessed of subordinate rights of property in taluqas in the territories subject to the administration of the Chief Commissioner of Oudh shall be entitled to obtain a sub-settlement of lands, villages or sub-divisions thereof, which they held under Taluqdárs on or before the thirteenth day of February 1856, and for determining the amounts payable to the Taluqdár by such subordinate proprietors, which rules were made by the said Chief Commissioner, sanctioned by the Governor General of India in Council, and published in the *Gazette of India* for September 1st, 1866, and which are re-published in the Schedule to this Act, are hereby declared to have the force of law.

Repeal of inconsistent rules.

2. So much of any Act, Regulation or Rule having the force of law, which is in operation in the said territories as may be inconsistent with or repugnant to the rules hereby legalized, shall cease to have effect in such territories.

Short title.

3. This Act may be called "The Oudh Sub-Settlement Act, 1866."

Schedule

PRICE TWO ANNAS.

ACT No. XXVI of 1866.

SCHEDULE.

Rules regarding sub-settlements and other subordinate rights of property in Oudh.

1. The extension of the term of limitation for the hearing of claims to under-proprietary rights in land, makes of itself no alteration in the principles hitherto observed in the recognition of a right to sub-settlement.

2. When no rights are proved to have been exercised or enjoyed by an under-proprietor during the period of limitation, beyond the possession of certain lands as *seer* or *nankar*, no sub-settlement can be made; but the claimant will be entitled, in accordance with the rules contained in the circular orders which have hitherto been in force in Oudh upon this subject, to the recognition of a proprietary right in such lands. To entitle a claimant to obtain a sub-settlement, he must show that he possesses an under-proprietary right in the lands of which the sub-settlement is claimed, and that such right has been kept alive, over the whole area claimed, within the period of limitation. He must also show that he, either by himself or by some other person or persons from whom he has inherited, has, by virtue of his under-proprietary right, and not merely through privilege granted on account of service, or by favour of the Talookdar, held such lands under contract (*pucka*), with some degree of continuousness, since the village came into the talooka.

3. The words "some degree of continuousness" will be interpreted as follows :—

If the village was included in the talooka before the 13th February 1836, the lease must have been held for not less than twelve years between that date and the annexation of the province. If the village was included in the talooka after the 13th February 1836, but before the 13th February 1844, the lease must have been held for not less than one year more than half the period between the time in which the village was so included and the annexation of the province. Further, the lease must, in all cases, have been held for not less than seven years during the term of limitation, unless the village was included for the first time in the talooka after the 13th February 1844, in which case the lease must have been held for not less than one year more than half of the period between the time in which the village was so included and the annexation of the province. Provided that, if, for any reason, the Talookdar was, for any period, dispossessed of the village, and the under-proprietor was dispossessed from the lease during the same period, the term of such dispossession shall not be reckoned against the under-proprietor. Provided also, that nothing in this rule will apply to any village which was included for the first time in the talooka after the 13th February 1844, and in which the under-proprietor has held no lease for any period under the Talookdar.

4. If an under-proprietor, who is entitled to a sub-settlement, can show by documentary evidence that he had entered into an agreement with the Talookdar that he should hold, in

perpetuity,

perpetuity, the lease of the lands to the sub-settlement of which he is entitled, at a uniform *(istimraree)* rate of payment, and that such agreement has been acted on within the period of limitation, he will not be liable to payment at an increased rate during the currency of the present or revised settlement. If, in consequence of any future re-adjustment of the Government demand, the former proportion between the respective shares of the profits derived from the land by the under-proprietor and the Talookdar should be altered, the amount payable by the under-proprietor to the Talookdar will be liable to re-adjustment, so that the proportion between their respective shares of the profits may remain unaltered.

5. If an under-proprietor, entitled to sub-settlement, can show by documentary evidence that he had entered into an agreement with the Talookdar that he should hold the lease of the lands to the sub-settlement of which he is entitled, on payment of the Government demand imposed before the annexation of the province on such lands, with the addition only of certain dues to the Talookdar, or other charges, and such agreement has been acted upon within the period of limitation, such under-proprietor will in future be liable only for the payment to the Talookdar of the Government demand for the time being, with the addition of ten per cent. in lieu of Talookdaree dues and other charges.

6. If an under-proprietor, entitled to sub-settlement, has held the lease of the lands to the sub-settlement of which he is entitled, under an agreement that he shall pay to the Talookdar a certain share or proportion of the profits or produce of such lands, and such agreement has been acted upon within the term of limitation, the under-proprietor will in future continue to be liable for the payment to the Talookdar of such share or proportion.

7. In all cases in which an under-proprietor is entitled to a sub-settlement other than those described in Rules 4 to 6, the amount payable by the under-proprietor to the Talookdar will be determined according to the following principles :—

1*st*.—The payments made by the under-proprietor to the Talookdar before annexation, will form the standard by which the present payments are to be regulated.

2*nd*.—In no case can the amount payable by the under-proprietor to the Talookdar, during the currency of the settlement, exceed the gross rental of the village, less ten per cent. in *seer* or *nankar* land.

3*rd*.—In no case can the amount payable during the currency of the settlement by the under-proprietor to the Talookdar, be less than the amount of the revised Government demand, with the addition of ten per cent.

4*th*.—If the gross rental of the village before annexation and at the present time be approximately the same, the under-proprietor will pay to the Talookdar the same amount which he paid before annexation.

5*th*.—If

5*th*.—If the present gross rental of the village exceed or fall short of the former gross rental, the payment of the under-proprietor to the Talookdar will be adjusted according to the following rule, *viz*, as the former gross rental is to the former payment of the under-proprietor, so is the present gross rental to the present payment of the under-proprietor.

6*th*.—In determining the amount payable by the under-proprietor to the Talookdar under the two last preceding rules, the former gross rental and the former payment of the under-proprietor will be held to be the average amount of the gross rental, and the average amount of the former payments of the under-proprietor for the twelve years preceding annexation, or for such portion of that time as the under-proprietor held a lease of the village from the Talookdar or for such portion of that time as the necessary information may be obtained.

8. In any case in which the clear share of the profit to which the under-proprietor is entitled under the rules contained in the last preceding paragraph does not exceed twelve per cent. of the gross rental, no sub-settlement shall be made. In this case, the under-proprietor will retain all *seer* and *nankar* land to which his right is established. If the profits derived from such land be less than one-tenth of the whole rental of the land to the sub-settlement of which the right was established, the Talookdar shall increase the amount of such land so that the total profit to the under-proprietor shall not fall below one-tenth of the gross rental. The under-proprietor will possess, in the whole of such land, a transferable and heritable right of property.

9. In any case in which an under-proprietor is entitled to a sub-settlement under the preceding rules, and in which the share of the gross rental which such under-proprietor is entitled to receive exceeds twelve per cent., but falls short of twenty-five per cent., such share will be increased so that it shall not be less than twenty-five per cent. of the gross rental. The cost of such increase will be borne half by the Government and half by the Talookdar. In this case, the cesses on account of roads, schools, &c., amounting to two and a half per cent. on the Government demand, will be payable by the Talookdar while the village expenses, including the allowances to the Putwaree and Chowkeedar, will be payable by the under-proprietor.

10. When a former proprietor, who is not entitled to a sub-settlement, has retained within the period of limitation, either by himself or by some other person or persons from whom he has inherited, possession of land which by virtue of his proprietary right he held as *seer* or *nankar* when he was in proprietary possession, he will be deemed in respect of such land to be an under-proprietor, and will possess a heritable and transferable right of property therein, subject to the payment of such amount as may be due by him to the superior proprietor.

11. If, in any case, the founder of a *Poorwa* or hamlet, who is unable to establish a right to sub-settlement, can show that, in consideration of having founded such *Poorwa* or hamlet, he has held therein, within the period of limitation, possession of *seer* or *nankar* land, he will be recognized as an under-proprietor in such land, subject to the payment of such amount as

may

may be due by him to the Talookdar. The amount of such payment will be determined according to the rules for determining the amount of the payments due by other under-proprietors on their *seer* or *nankar* lands.

12. Claims to proprietary and under-proprietary rights in *jagheers* will be treated according to the same rules which are applicable to similar claims in talookas.

13. Cases in which claims to under-proprietary rights have been disposed of otherwise than in accordance with these rules will be open to revision, but this rule will not apply to cases disposed of by arbitration or by agreement of the parties.

SIMLA,
The 20th August 1866.

J. STRACHEY,
Chief Commissioner of Oudh.

Military Orphan Press.—No. 16 L. C.—23-11-66.—2,400.

ACT No. XXVII OF 1866.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 24th October 1866.)

An Act to consolidate and amend the law relating to the conveyance and transfer of property in British India vested in Mortgagees and Trustees, in cases to which English law is applicable.

Preamble.

Whereas it is expedient to consolidate and amend the laws relating to the conveyance and transfer of moveable and immoveable property in British India vested in Mortgagees and Trustees, in cases to which English law is applicable; It is hereby enacted as follows:—

Repealed by Act XIV of 1880

Acts repealed.

1. Section 3 of Act XXIV of 1841 (*for the greater uniformity of the law administered by Her Majesty's Supreme Courts with that administered in England, in regard to the undisposed residue of the effects of Testators; illusory appointments; the transfer of estates by persons under disabilities pursuant to the direction of Courts, and the better management of the property of such persons, and other like matters*), and so much of Act No. XIV of 1852 (*for extending the provisions of Acts XXIV of* 1841 *and XVII of* 1843 *to the Straits' Settlement*) as extends the provisions of the said Section to the Settlement of Prince of Wales' Island, Singapore and Malacca, are hereby repealed: Provided that all proceedings under the said Section or Act commenced before this Act comes into operation, may be proceeded with under the said Section or Act or according to the provisions of this Act, as shall be thought expedient by the person by whom they were commenced.

Interpretation.

2. In this Act, unless there be something repugnant in the subject or context—

"Immoveable property."

"Immoveable property" shall extend to and include messuages, tenements, and hereditaments, corporeal and incorporeal, of every tenure or description, whatever may be the estate or interest therein:

"Stock"

"Stock." "Stock" shall mean any fund, annuity or security transferable in books kept by any Company or Society established or to be established, or transferable by deed alone, or by deed accompanied by other formalities, and any share or interest therein. It shall also include shares in ships registered under the Merchant Shipping Act, 1854, or at any port in British India :

"Hold" and "Holding." "Hold" and "Holding" shall be applicable to any vested estate, whether for life or of a greater or less description, in possession, futurity or expectancy, in any immoveable property :

"Contingent right." "Contingent right" as applied to immoveable property shall mean a contingent or executory interest, or possibility coupled with an interest, whether the object of the gift or limitation of such interest or possibility be or be not ascertained ; also a right of entry, whether immediate or future, and whether vested or contingent :

"Convey" "Conveyance." "Convey" and "Conveyance" applied to any person, shall mean the execution by such person of every necessary or suitable assurance for conveying or disposing to another immoveable property which such person holds, or in which he is entitled to a contingent right either for the whole estate of the person conveying or disposing, or for any less estate, together with the performance of all formalities required by law to the validity of such conveyance, including the acts to be performed by married women and tenants in tail in accordance with the provisions of Act XXXI of 1854 (~~*to abolish real actions and also fines and common recoveries, and*~~ *to simplify the modes of conveying land in cases to which the English law is applicable*) :

"Transfer." "Transfer" shall mean the execution and performance of every deed and act by which a person entitled to stock or Government securities can transfer such stock or Government securities from himself to another :

"High Court." "High Court" shall mean every Court now or hereafter established under the Statute 24 & 25 Vic., cap. 104, and also the Chief Court of the Punjab, and the Chief Court of Lower Burma or such one or more Judges of the said Courts respectively as shall be appointed by the Chief Justice or the Senior Judge, as the case may be, to entertain applications and make orders under this Act :

"Trust"

"Trust." "Trustee."

"Trust" shall not mean the duties incident to an estate conveyed by way of mortgage; but with this exception, the words "Trust" and "Trustee" shall extend to and include implied and constructive trusts, and shall extend to and include cases where the Trustee has some beneficial estate or interest in the subject of the trust, and shall extend to and include the duties incident to the office of executor or administrator of a deceased person:

"Lunatic."

"Lunatic" shall mean any person who shall have been found by due course of law to be of unsound mind and incapable of managing his affairs:

"Person of unsound mind."

"Person of unsound mind" shall mean any person not a minor who, not having been found to be a lunatic, shall be incapable from infirmity of mind to manage his own affairs:

"Heir" and "Devisee."

In the case of a will made or an intestacy occurring before the first day of January 1866, "Heir" shall mean the person claiming an interest in the immoveable property of a deceased person under the laws concerning descent applicable to such property: and "Devisee" shall, in addition to its ordinary signification, mean the heir of a devisee and the devisee of an heir, and generally any person claiming an interest in the immoveable property of a deceased person, not as heir of such deceased person, but by a title dependent solely upon the operation of the laws concerning devise and descent:

In the case of a will made or an intestacy occurring on or after the first day of January 1866, "Heir" shall mean any person claiming an interest in the immoveable property of a deceased person under the rules for the distribution of an intestate's estate; and "Devisee" shall mean any person taking immoveable property under a bequest, and any person, other than an executor or administrator, claiming an interest in immoveable property, not as entitled thereto under the said rules, but by a title dependent solely upon the operation of the laws concerning intestate and testamentary succession:

"Mortgage."

"Mortgage" shall be applicable to every estate or interest in immoveable or moveable property which would in the High Court be deemed merely a security for money:

"Person"

"Person." "Person" shall include any Company or Association, or body of persons whether incorporated or not:

Number. gender. Words importing the singular number only shall extend to several persons or things; words importing the plural number shall apply to one person or thing; words importing the masculine gender shall extend to a female.

The High Court to have jurisdiction in what cases.

3. The powers and authorities given by this Act to the High Courts shall and may be exercised only in cases to which English law is applicable, and may be exercised with respect to property within the local limits of the extraordinary original Civil jurisdiction of the said Courts respectively.

High Court may convey estates of lunatic Trustees and Mortgagees;

4. When any lunatic or person of unsound mind shall hold any immoveable property upon any trust or by way of mortgage, it shall be lawful for the High Court to make an order that such property be vested in such person or persons in such manner and for such estate as the said Court shall direct; and the order shall have the same effect as if the Trustee or Mortgagee had been sane, and had duly executed a conveyance of the property in the same manner for the same estate.

and may convey contingent rights.

5. When any lunatic or person of unsound mind shall be entitled to any contingent right in any immoveable property upon any trust or by way of mortgage, it shall be lawful for the High Court to make an order wholly releasing such property from such contingent right; or disposing of the same to such person or persons as the said High Court shall direct; and the order shall have the same effect as if the Trustee or Mortgagee had been sane, and had duly executed a deed so releasing or disposing of the contingent right.

High Court may transfer stock or Government securities of lunatic Trustees and Mortgagees.

6. When any lunatic or person of unsound mind shall be solely entitled to any stock or Government securities, or to any thing in action upon any trust or by way of mortgage, it shall be lawful for the High Court to make an order vesting in any person or persons the right to transfer such stock or Government securities, or to receive the dividends, interest or income thereof, or to sue for and recover such thing in action, or any interest in respect thereof: and when any person or persons shall be entitled jointly with any lunatic or person

person of unsound mind to any stock or Government securities or thing in action upon any trust or by way of mortgage, it shall be lawful for the said Court to make an order vesting the right to transfer such stock or Government securities, or to receive the dividends, interest or income thereof, or to sue for and recover such thing in action or any interest in respect thereof, either in such person or persons so jointly entitled as aforesaid, or in such last-mentioned person or persons together with any other person or persons the said High Court may appoint.

Power to transfer stock or Government securities of deceased persons.

7. When any stock or Government securities shall be standing in the name of any deceased person whose executor or administrator is a lunatic or person of unsound mind, or when any thing in action shall be vested in any lunatic or person of unsound mind as the executor or administrator of a deceased person, it shall be lawful for the High Court to make an order vesting the right to transfer such stock or Government securities, or to receive the dividends, interest or income thereof, or to sue for and recover such thing in action, or any interest in respect thereof, in any person or persons the said Court may appoint.

High Court may convey estates of minor Trustees and Mortgagees.

8. Where any minor shall hold any immoveable property upon any trust or by way of mortgage, it shall be lawful for the High Court to make an order vesting such property in such person or persons in such manner and for such estate as the said Court shall direct; and the order shall have the same effect as if the minor Trustee or Mortgagee had attained his majority, and had duly executed a conveyance of the property in the same manner for the same estate.

Contingent rights of minor Trustees and Mortgagees.

9. Where any minor shall be entitled to any contingent right in any immoveable property upon any trust or by way of mortgage, it shall be lawful for the High Court to make an order wholly releasing such property from such contingent right, or disposing of the same to such person or persons as the said Court shall direct; and the order shall have the same effect as if the minor had attained his majority, and had duly executed a deed so releasing or disposing of the contingent right.

High Court may convey the estate of a Trustee out of the jurisdiction of the Court.

10. When any person solely holding any immoveable property upon any trust shall be out of the jurisdiction of the High Court, or cannot be found, it shall be lawful for the said Court to make an order vesting such property in such person or persons in such

such manner and for such estate as the said Court shall direct, and the order shall have the same effect as if the Trustee had duly executed a conveyance of the property in the same manner and for the same estate.

High Court may make order in cases where persons hold immoveable property in trust jointly with persons out of jurisdiction of Court, &c.

11. When any person or persons shall hold any immoveable property in trust jointly with a person not within the jurisdiction of the High Court, or who cannot be found, it shall be lawful for the said Court to make an order vesting the property in the person or persons so jointly holding, or in such last-mentioned person or persons together with any other person or persons, in such manner and for such estate as the said Court shall direct; and the order shall have the same effect as if the Trustee out of the jurisdiction, or who cannot be found, had duly executed a conveyance of the property in the same manner for the same estate.

Contingent rights of Trustees.

12. When any person solely entitled to a contingent right in any immoveable property upon any trust shall be out of the jurisdiction of the High Court, or cannot be found, it shall be lawful for the said Court to make an order wholly releasing such property from such contingent right, or disposing of the same to such person or persons as the said Court shall direct; and the order shall have the same effect as if the Trustee had duly executed a conveyance so releasing or disposing of the contingent right.

High Court may make order in cases where persons are jointly entitled with others out of the jurisdiction of the Court to a contingent right in immoveable property.

13. When any person jointly entitled with any other person or persons to a contingent right in any immoveable property upon any trust shall be out of the jurisdiction of the High Court, or cannot be found, it shall be lawful for the said Court to make an order disposing of the contingent right of the person out of the jurisdiction, or who cannot be found, to the person or persons so jointly entitled as aforesaid, or to such last-mentioned person or persons together with any other person or persons; and the order shall have the same effect as if the Trustee out of the jurisdiction, or who cannot be found, had duly executed a conveyance so releasing or disposing of the contingent right.

When it is uncertain which of several Trustees was the survivor.

14. Where there shall have been two or more persons jointly holding any immoveable property upon any trust, and it shall be uncertain which of such Trustees was the survivor, it shall be lawful for the High Court to make an order vesting such property

property in such person or persons in such manner and for such estate as the said Court shall direct; and the order shall have the same effect as if the survivor of such Trustees had duly executed a conveyance of the property in the same manner for the same estate.

When it is uncertain whether the last Trustee be living or dead.

15. Where any one or more person or persons shall have held any immoveable property upon any trust, and it shall not be known, as to the Trustee last known to have held such property, whether he be living or dead, it shall be lawful for the High Court to make an order vesting such property in such person or persons in such manner and for such estate as the said Court shall direct; and the order shall have the same effect as if the last Trustee had duly executed a conveyance of the property in the same manner for the same estate.

When Trustee dies without an heir.

16. When any person holding any immoveable property upon any trust shall have died intestate as to such property without an heir, or shall have died, and it shall not be known who is his heir or devisee, it shall be lawful for the High Court to make an order vesting such property in such person or persons in such manner and for such estate as the said Court shall direct; and the order shall have the same effect as if the heir or devisee of such Trustee had duly executed a conveyance of the property in the same manner for the same estate.

Contingent right of unborn Trustee.

17. When any immoveable property is subject to a contingent right in an unborn person, or class of unborn persons who, upon coming into existence, would in respect thereof hold such property upon any trust, it shall be lawful for the High Court to make an order which shall wholly release and discharge such property from such contingent right in such unborn person or class of unborn persons, or to make an order which shall vest in any person or persons the estate or estates which such unborn person or class of unborn persons would, upon coming into existence, hold in such property.

Power to make an order for vesting the estate on refusal or neglect of a Trustee to convey or release.

18. In every case where any person holds or shall hold jointly or solely any immoveable property, or is or shall be entitled to a contingent right therein upon any trust, and a demand shall have been made upon such Trustee by a person entitled to require a conveyance of such property, or a duly authorized agent of such last-mentioned person, requiring such Trustee to convey the same

same, or to release such contingent right, it shall be lawful for the High Court, if the said Court shall be satisfied that such Trustee has wilfully refused or neglected to convey the said property for the space of twenty-eight days after such demand, to make an order vesting such property in such person or persons, in such manner and for such estate as the Court shall direct, or releasing such contingent right in such manner as the Court shall direct; and the said order shall have the same effect as if the Trustee had duly executed a conveyance of the property, or a release of such right, in the same manner and for the same estate.

Power to convey in place of Mortgagee.

19. When any person to whom any immoveable property has been conveyed by way of mortgage, shall have died without having entered into the possession or into the receipt of the rents and profits thereof, and the money due in respect of such mortgage shall have been paid to a person entitled to receive the same, or such last-mentioned person shall consent to an order for the re-conveyance or vesting of such property, then in any of the following cases, it shall be lawful for the High Court to make an order vesting such property in such person or persons in such manner and for such estate as the said Court shall direct, that is to say,—

When an heir or devisee of such mortgagee shall be out of the jurisdiction of the High Court, or cannot be found:

When an heir or devisee of such mortgagee shall, upon a demand by a person entitled to require a conveyance of such property, or a duly authorized agent of such last-mentioned person, have stated in writing that he will not convey the same, or shall not convey the same for the space of twenty-eight days next after a proper deed for conveying such property shall have been tendered to him by a person entitled as aforesaid, or a duly authorized agent of such last-mentioned person:

When it shall be uncertain which of several devisees of such mortgagee was the survivor:

When it shall be uncertain as to the survivor of several devisees of such mortgagee, or as to the heir of such mortgagee whether he be living or dead:

When such mortgagee shall have died intestate as to such property and without an heir, or shall have died, and it shall not be known who is his heir or devisee:

And

And the order of the said High Court made in any one of the foregoing cases, shall have the same effect as if the heir or devisee, or surviving devisee, as the case may be, had duly executed a conveyance of the property in the same manner and for the same estate.

Power to appoint a person to convey in certain cases.

20. In every case where the High Court shall, under the provisions of this Act, be enabled to make an order having the effect of a conveyance of any immoveable property, or having the effect of a release or disposition of the contingent right of any person or persons, born or unborn, it shall also be lawful for the High Court, should it be deemed more convenient, to make an order appointing a person to convey such property or release or dispose of such contingent right; and the conveyance, or release or disposition of the person so appointed, shall, when in conformity with the terms of the order by which he is appointed, have the same effect, in conveying the property, or releasing or disposing of the contingent right, as an order of the High Court would in the particular case have had under the provisions of this Act. In every case where the High Court shall, under the provisions of this Act, be enabled to make an order vesting in any person or persons the right to transfer any stock transferable in the books of any Company or Society established or to be established, it shall also be lawful for the High Court, if it be deemed more convenient, to make an order directing the Secretary or any Officer of such Company or Society at once to transfer or join in transferring the stock to the person or persons to be named in the order; and this Act shall be a full and complete indemnity and discharge to all Companies or Societies and their officers and servants for all acts done or permitted to be done pursuant thereto.

When Trustees of stock or Government securities out of the jurisdiction.

21. When any person or persons shall be jointly entitled with any person out of the jurisdiction of the High Court, or who cannot be found, or concerning whom it shall be uncertain whether he be living or dead, to any stock or Government securities or thing in action upon any trust, it shall be lawful for the said Court to make an order vesting the right to transfer such stock or Government securities, or to receive the dividends, interest or income thereof, or to sue for or recover such thing in action or any interest in respect thereof, either in such person or persons so jointly entitled as aforesaid, or in such last-mentioned person or persons together with any person or persons the said Court may appoint. When any sole Trustee of any stock, Government securities, or thing

thing in action shall be out of the jurisdiction of the said Court, or cannot be found, or it shall be uncertain whether he be living or dead, it shall be lawful for the said Court to make an order vesting the right to transfer such stock or Government securities, or to receive the dividends, interest or income thereof, or to sue for and recover such thing in action, or any interest in respect thereof, in any person or persons the said Court may appoint.

When Trustee of stock, &c., refuses to transfer.

22. Where any sole Trustee of any stock, Government securities, or thing in action, shall neglect or refuse to transfer such stock or Government securities, or to receive the dividends, interest or income thereof, or to sue for or recover such thing in action, or any interest in respect thereof, according to the direction of the person absolutely entitled thereto, for the space of twenty-eight days next after a request in writing for that purpose shall have been made to him by the person absolutely entitled thereto, it shall be lawful for the High Court to make an order vesting the sole right to transfer such stock or Government securities, or to receive the dividends, interest or income thereof, or to sue for and recover such thing in action, or any interest in respect thereof, in such person or persons as the said Court may appoint.

When one of several Trustees of stock, &c., refuses to transfer or receive and pay over dividends.

23. Where any one of the Trustees of any stock, Government securities, or thing in action, shall neglect or refuse to transfer such stock or Government securities, or to receive the dividends, interest or income thereof, or to sue for or recover such thing in action according to the direction of the person absolutely entitled thereto, for the space of twenty-eight days next after a request in writing for that purpose shall have been made to him by such person, it shall be lawful for the High Court to make an order vesting the right to transfer such stock or Government securities, or to receive the dividends, interest or income thereof, or to sue for and recover such thing in action, in the other Trustee or Trustees of the said stock, Government securities, or thing in action, or in any person or persons whom the said Court may appoint jointly with such other Trustee or Trustees.

When stock, &c, is standing in the name of a deceased person.

24. When any stock or Government securities shall be standing in the sole name of a deceased person, and his executor or administrator shall be out of the jurisdiction of the High Court, or cannot be found, or it shall be uncertain whether such executor or administrator be living or dead, or such executor or administrator shall

shall neglect or refuse to transfer such stock or Government securities, or receive the dividends, interest or income thereof, according to the direction of the person absolutely entitled thereto, for the space of twenty-eight days next after a request in writing for that purpose shall have been made to him by the person entitled as aforesaid, it shall be lawful for the said Court to make an order vesting the right to transfer such stock or Government securities, or to receive the dividends, interest or income thereof, in any person or persons whom the said Court may appoint.

Effect of an order vesting the legal right to transfer stock, &c.

25. Where any order shall have been made under this Act vesting the right to any stock or Government securities in any person or persons appointed by the High Court, such legal right shall vest accordingly, and thereupon the person or persons so appointed are hereby authorized and empowered to execute all deeds and powers of attorney, and to perform all acts relating to the transfer of such stock and Government securities into his or their own name or names or otherwise, or relating to the receipt of the dividends, interest or income thereof, to the extent and in conformity with the terms of such order. All Companies and Associations whatever, and all persons, shall be equally bound and compellable to comply with the requisitions of such person or persons so appointed as aforesaid, to the extent and in conformity with the terms of such order, as such Companies, Associations or persons would have been bound and compellable to comply with the requisitions of the person in whose place such appointment shall have been made, and shall be equally indemnified in complying with the requisition of such person or persons so appointed as they would have been indemnified in complying with the requisition of the person in whose place such appointment shall have been made. After notice in writing of any such order of the High Court concerning any stock or Government securities shall have been given, it shall not be lawful for any Company or Association, or any person having received such notice, to act upon the requisition of the person in whose place an appointment shall have been made, in any matter relating to the transfer of such stock or Government securities, or the payment of the dividends, interest or income thereof.

Effect of an order vesting legal right in a thing in action.

26. Where any order shall have been made under this Act by the High Court vesting the legal right to sue for or recover any thing in action, or any interest in respect thereof, in any person or persons, such legal right shall vest accordingly; and thereupon

upon it shall be lawful for the person or persons so appointed to carry on, commence and prosecute, in his or their own name or names, any suit or other proceeding for the recovery of such thing in action, in the same manner in all respects as the person in whose place an appointment shall have been made could have sued for or recovered such thing in action.

On neglect to transfer stock, &c., for twenty-eight days, order may be made vesting right to transfer in such person as the Court shall appoint.

27. Where any person shall neglect or refuse to transfer any stock or Government securities, or to receive the dividends, interest or income thereof, or to sue for or recover any thing in action, or any interest in respect thereof, for the space of twenty-eight days next after an order of the High Court for that purpose shall have been served upon him, it shall be lawful for the said Court to make an order vesting all the right of such person to transfer such stock or Government securities, or to receive the dividends, interest or income thereof, or to sue for and recover such thing in action, or any interest in respect thereof, in such person or persons as the said Court may appoint.

On like neglect by executor, similar order may be made.

28. When any stock or Government securities shall be standing in the sole name of a deceased person, and his executor or administrator shall refuse or neglect to transfer such stock or Government securities, or receive the dividends, interest or income thereof for the space of twenty-eight days next after an order of the High Court for that purpose shall have been served upon him, it shall be lawful for the said Court to make an order vesting the right to transfer such stock or Government securities, or to receive the dividends, interest or income thereof, in any person or persons whom the said Court may appoint.

Companies and Associations to comply with such orders.

29. When any order being or purporting to be under this Act shall be made by the High Court, vesting the right to any stock or Government securities, or vesting the right to transfer any stock or Government securities, or vesting the right to call for the transfer of any stock or Government securities in any person or persons, in every such case the legal right to transfer such stock or Government securities shall vest accordingly; and the person or persons so appointed shall be authorized and empowered to execute all deeds and powers of attorney, and to perform all acts relating to the transfer of such stock or Government securities into his or their own name or names or otherwise, to the

the extent and in conformity with the terms of the order. All Companies and Associations, and all persons, shall be equally bound and compellable to comply with the requisitions of such person or persons so appointed as aforesaid, to the extent and in conformity with the terms of such order, as such Companies, Associations or persons would have been bound and compellable to comply with the requisitions of the person in whose place such appointment shall have been made.

Power to make an order for the transfer or receipt of dividends of stock, &c., in name of a minor Trustee.

30. When any minor shall be solely entitled to any stock or Government securities upon any trust, it shall be lawful for the High Court to make an order vesting in any person or persons the right to transfer such stock or Government securities, or to receive the dividends, interest or income thereof. When any minor shall be entitled jointly with any other person or persons to any stock or Government securities upon any trust, it shall be lawful for the said Court to make an order vesting the right to transfer such stock or Government securities, or to receive the dividends, interest or income thereof, either in the person or persons jointly entitled with the minor, or in him or them together with any other person or persons the said Court may appoint.

When a decree is made for sale of immoveable property for payment of debts.

31. When a decree or order shall have been made by the High Court directing the sale of any immoveable property for the payment of the debts of a deceased person, every person holding such property, or entitled to a contingent right therein, as heir, or under the will of such deceased debtor, shall be deemed so to hold or be entitled (as the case may be) upon a trust within the meaning of this Act: and the High Court is hereby empowered to make an order wholly discharging the contingent right under the will of such deceased debtor of any unborn person.

High Court may make an order for vesting the estate in lieu of conveyance by a party to the suit after a decree or order for sale.

32. When any decree or order shall have been made by the High Court, whether before or after the passing of this Act, directing the sale of any immoveable property for any purpose whatever, every person holding such property, or entitled to a contingent right therein, being a party to the suit or proceeding in which such decree or order shall have been made and bound thereby, or being otherwise bound by such decree or order, shall be deemed so to hold or be entitled (as the case may be) upon a trust within the meaning of this Act. In every such case, it shall be lawful for the High Court, if the

if the said Court shall think it expedient for the purpose of carrying such sale into effect, to make an order vesting such property or any part thereof, for such estate as the Court shall think fit, either in any purchaser or in such other person as the Court shall direct. Every such order shall have the same effect as if the person so holding or entitled had been free from all disability, and had duly executed all proper conveyances and assignments of such property for such estate.

Court to declare what parties are Trustees of immoveable property comprised in any suit, and as to the interests of persons unborn.

33. Where any decree or order shall be made by the High Court for the specific performance of a contract concerning any immoveable property, or for the partition or exchange of any immoveable property, or generally when any decree shall be made for the conveyance of any immoveable property, either in cases arising out of the doctrine of election or otherwise, it shall be lawful for the said Court to declare that any of the parties to the said suit wherein such decree is made are Trustees of such property or any part thereof, within the meaning of this Act, or to declare concerning the interests of unborn persons who might claim under any party to the said suit, or under the will or voluntary settlement of any person deceased who was during his life-time a party to the contract or transactions concerning which such decree is made, that such interests of unborn persons are the interests of persons who, upon coming into existence, would be Trustees within the meaning of this Act. Thereupon it shall be lawful for the High Court to make such order or orders as to the estates, rights and interests of such persons, born or unborn, as the said Court might, under the provisions of this Act, make concerning the estates, rights and interests of Trustees born or unborn.

Power to make directions how the right to transfer stock shall be exercised.

34. It shall be lawful for the High Court to make declarations and give directions concerning the manner in which the right to any stock, Government securities or thing in action vested under the provisions of this Act shall be exercised, and thereupon the person or persons in whom such right shall be vested shall be compellable to obey such directions and declarations by the same process as that by which other orders under this Act are enforced.

Power to Court to make order appointing new Trustees.

35. In all cases in which it shall be expedient to appoint a new Trustee or new Trustees, and it shall be found inexpedient, difficult or impracticable so to do without the assistance of the High Court, it shall be lawful for the said Court to make an order appointing

appointing a new Trustee or new Trustees, whether there be any existing Trustee or Trustees or not at the time of making such order, and if there be such Trustee or Trustees, either in substitution for or in addition to him or them. The person or persons who, upon the making of such order shall be Trustee or Trustees, shall have the same rights and powers as he or they would have had if appointed by decree in a suit duly instituted.

New Trustees to have powers of Trustees appointed by decree in suit.

36. It shall be lawful for the High Court, upon making any order for appointing a new Trustee or new Trustees, either by the same or by any subsequent order, to direct that any immoveable property subject to the trust shall vest in the person or persons who upon the appointment shall be the Trustee or Trustees, for such estate as the Court shall direct. Such order shall have the same effect as if the person or persons who, before such order, was or were the Trustee or Trustees (if any) had duly executed all proper conveyances of such property for such estate.

Power to Court to vest immoveable property in new Trustee.

37. It shall be lawful for the High Court, upon making any order for appointing a new Trustee or new Trustees, either by the same or by any subsequent order, to vest the right to call for a transfer of any stock or Government securities subject to the trust, or to receive the dividends, interest or income thereof, or to sue for or recover any thing in action subject to the trust, or any interest in respect thereof, in the person or persons who upon the appointment shall be the Trustee or Trustees.

Power to Court to vest right to sue in new Trustees.

38. Any such appointment by the High Court of new Trustees, and any such conveyance or transfer as aforesaid, shall operate no further or otherwise as a discharge to any former or continuing Trustee, than an appointment of new Trustees under any power for that purpose contained in any instrument would have done.

Old Trustees not to be discharged from liability.

39. An order under any of the hereinbefore contained provisions, for the appointment of a new Trustee or new Trustees, or concerning any immoveable property, stock or Government securities, or thing in action subject to a trust, may be made upon the application of any person beneficially interested in such immoveable property, stock, Government securities, or thing in action, whether under disability or not, or upon the application of any person duly appointed as a Trustee thereof; and an order

Who may apply.

order under any of the provisions hereinbefore contained, concerning any immoveable property, stock, Government securities, or thing in action subject to a mortgage, may be made on the application of any person beneficially interested in the equity of redemption, whether under disability or not, or of any person interested in the monies secured by such mortgage.

Application may be by petition.

40. When any person shall deem himself entitled to an order under any of the provisions hereinbefore contained, it shall be lawful for him to present a petition to the High Court for such order as he may deem himself entitled to, and he may give evidence by affidavit or otherwise in support of such petition before the said Court, and may serve such person or persons with notice of such petition as he may deem entitled to service thereof.

What may be done upon petition.

41. Upon the hearing of any such petition, it shall be lawful for the said High Court, should it be deemed necessary, to direct a reference to one of the Judges of the Court to inquire into any facts which require such an investigation, or it shall be lawful for the said Court to direct such petition to stand over, to enable the petitioner to adduce evidence or further evidence before the Court, or to enable notice or any further notice of such petition to be served upon any person or persons.

Court may dismiss petition with or without costs.

42. Upon the hearing of any such petition, it shall be lawful for the High Court to dismiss such petition with or without costs, or to make an order thereupon in conformity with the provisions of this Act.

Power to make an order in a cause.

43. Whensoever in any cause or matter, either by the evidence adduced therein, or by the admissions of the parties, or by report of one of the Judges of the Court, the facts necessary for an order under this Act shall appear to the High Court to be sufficiently proved, it shall be lawful for the said Court, either upon the hearing of the said cause or of any petition or application in the said cause or matter, to make such order under this Act.

Orders made by the High Court founded on certain allegations to be conclusive evidence of the matter contained in such allegations.

44. Whenever any order shall be made under this Act by the High Court, for the purpose of conveying any immoveable property, or for the purpose of releasing or disposing of any contingent right, and such order shall be founded on an allegation of the personal incapacity of a Trustee or Mortgagee, or on an allegation that a Trustee or the heir or devisee

devisee of a Mortgagee is out of the jurisdiction of the High Court, or cannot be found, or that it is uncertain which of several Trustees, or which of several devisees of a Mortgagee, was the survivor, or whether the last Trustee, or the heir, or last surviving devisee of a Mortgagee, be living or dead, or on an allegation that any Trustee or Mortgagee has died intestate without an heir, or has died and it is not known who is his heir or devisee, then in any of such cases the fact that the High Court has made an order upon such an allegation, shall be conclusive evidence of the matter so alleged in any Court of Civil Judicature upon any question as to the legal validity of the order: Provided always, that nothing herein contained shall prevent the High Court directing a re-conveyance of any immoveable property conveyed or assigned by any order under this Act, or a re-disposition of any contingent right conveyed or disposed of by such order; and it shall be lawful for the said Court to direct any of the parties to any suit concerning such property or contingent right, to pay any costs occasioned by the order under this Act, when the same shall appear to have been improperly obtained.

Trustees of charity.

45. It shall be lawful for the High Court to exercise the powers herein conferred for the purpose of vesting any immoveable property, stock, Government securities, or thing in action in the Trustee or Trustees of any charity or society, over which charity or society the High Court would have jurisdiction upon suit duly instituted, whether such Trustee or Trustees shall have been duly appointed by any power contained in any deed or instrument, or by the decree of the said Court, or by order made upon a petition to the said Court.

Money of minors and persons of unsound mind to be paid into Court.

46. Where any minor or person of unsound mind shall be entitled to any money payable in discharge of any immoveable property, stock, Government securities, or thing in action conveyed or transferred under this Act, it shall be lawful for the person by whom such money is payable to pay the same into the High Court, in trust in any cause then depending concerning such money, or if there shall be no such cause, to the credit of such minor or person of unsound mind, subject to the order or disposition of the said Court; and it shall be lawful for the said Court, upon petition in a summary way, to order any money so paid to be invested in Government securities, and to order payment or distribution thereof, or payment of the dividends or interest thereof, as to the said Court shall seem reasonable.

47. Where

Court may make a decree in the absence of a Trustee.

47. Where in any suit commenced or to be commenced in the High Court it shall be made to appear to the Court that diligent search and enquiry have been made after any person made a defendant, who is only a Trustee, to serve him with the process of the Court, and that he cannot be found, it shall be lawful for the said Court to hear and determine such cause, and to make such absolute decree therein against every person who shall appear to it to be only a Trustee, and not otherwise concerned in interest in the matter in question, in such and the same manner as if such Trustee had been duly served with the process of the Court, and had appeared at the hearing of such cause: Provided always, that no such decree shall bind, affect, or in any wise prejudice any person against whom the same shall be made, without service of process upon him as aforesaid, his heirs, executors, or administrators for or in respect of any estate, right or interest which such person shall have at the time of making such decree for his own use or benefit, or otherwise than as a Trustee as aforesaid.

Orders made under this Act to be chargeable with the same stamp duty as deeds of conveyance.

48. Every order to be made under this Act, which shall have the effect of a conveyance of any immoveable property, or a transfer of any such stock, Government securities, or thing in action as can only be transferred by stamped deed, or for the transfer of which a stamp is necessary, shall be chargeable with the like amount of stamp duty as it would have been chargeable with if it had been a deed executed or a transfer made by the person or persons holding such property or entitled to such stock, Government securities, or thing in action. Every such order shall be duly stamped for denoting the payment of the said duty.

Costs may be paid out of the estate.

49. The High Court may order the costs and expenses of and relating to the petitions, orders, directions, conveyances and transfers to be made in pursuance of this Act, or any of them, to be paid and raised out of or from the immoveable or moveable property, or the rents or produce thereof, in respect of which the same respectively shall be made, or in such manner as the said Court shall think proper.

Enquiry concerning person of unsound mind.

50. Upon any petition being presented under this Act to the High Court concerning a person of unsound mind, it shall be lawful for the said Court to make an order directing an enquiry whether such person is or is not of unsound mind, and incapable

capable of managing himself and his affairs. Such order shall have the same effect as the like order made under Section 1 of Act XXXIV of 1858 (*to regulate proceedings in Lunacy in the Courts of Judicature established by Royal Charter*), and the enquiry directed to be made shall be made in all respects in the manner declared and prescribed for making an enquiry under the last-mentioned Act. The High Court may postpone making any order upon the petition presented as aforesaid, until any enquiry so directed to be made shall have been finally concluded.

Suit may be directed.

51. Upon any petition under this Act being presented to the High Court, it shall be lawful for the said Court to postpone making any order upon such petition, until the right of the petitioner shall have been declared in a suit duly instituted for that purpose.

Indemnity to all persons obeying orders passed under this Act.

52. Every order made or purporting to be made under this Act by the High Court shall be a complete indemnity to all persons whatsoever for any act done pursuant thereto; and it shall not be necessary for such persons to enquire concerning the propriety of such order, or whether the High Court has jurisdiction to make the same.

Orders under the Act to be executed as, and have the effect of, decrees.

53. Any order made by the High Court under this Act shall have the same effect and be executed in the same manner as a decree.

Short Title.

54. This Act may be cited as "The Indian Trustee Act, 1866."

From 1st February 1867, this Act to apply to Straits' Settlement.

55. On and after the first day of February 1867 (but not till then), the powers and authorities given by this Act to the High Courts, shall and may be exercised by the Court of Judicature of the Settlement of Prince of Wales' Island, Singapore and Malacca, with respect to moveable and immoveable property within the local limits of the jurisdiction of that Court; and, in the said Settlement, Section 2 of this Act shall be read as if the words and figures "first day of February 1867" were substituted for the words and figures "first day of January 1866."

Repealed by act XVI of 1874

Military Orphan Press.—No. 19 L. C.—21-11-66.—2,400.

ACT No. XXVIII OF 1866.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor General on the 24th October* 1866.)

An Act to give to Trustees, Mortgagees and others, in cases to which English Law is applicable, certain powers now commonly inserted in Settlements, Mortgages and Wills, and to amend the Law of property and relieve Trustees.

Preamble.

Whereas it is expedient that in cases to which English Law is applicable, certain powers and provisions usually inserted in Settlements, Mortgages, Wills and other instruments, should be made incident to the estates of the persons interested, so as to dispense with the necessity of inserting the same in terms in every such instrument, and that in such cases Trustees should be relieved; It is enacted as follows :—

Interpretation of terms.

1. In the construction of this Act, unless there be something repugnant in the subject or context—

"Immoveable property."

"Immoveable Property" shall include land, any benefit to arise out of land, and things attached to the earth or permanently fastened to anything which is attached to the earth :

"Mortgage."

"Mortgage" shall be taken to include every instrument by virtue whereof immoveable property is in any manner conveyed, pledged, or charged as security for the repayment of money or moneys worth lent, and to be re-conveyed, or released on satisfaction of the debt :

"Mortgagor."

"Mortgagor" shall be taken to include every person by whom any such conveyance, pledge, or charge as aforesaid shall be made :

"Mortgagee."

"Mortgagee" shall be taken to include every person to whom or in whose favour any such conveyance, pledge or charge as aforesaid is made or transferred : and

"High

"High Court." "High Court" means any Court established or to be established under Statute 24 & 25 Vic., cap. 104, and includes the Chief Court of the Punjab ~~and the Supreme Court of Judicature of the Settlement of Prince of Wales' Island, Singapore and Malacca~~. and the Chief Court of Lower Burma

Powers of Trustees for sale, &c., and Trustees of renewable lease-holds.

Trustees empowered to sell may sell in lots, and either by public auction or private contract.

2. In all cases where, by any will, deed or other instrument of settlement, it is expressly declared that Trustees or other persons therein named or indicated shall have a power of sale, either generally or in any particular event, over any immoveable property named or referred to in, or from time to time subject to, the uses or trusts of such will, deed or other instrument, it shall be lawful for such Trustees or other persons, whether such property be vested in them or not, to exercise such power of sale by selling such property either together or in lots, and either by public auction or private contract, and either at one time or at several times.

Sale may be made under special conditions, and Trustees may buy in, &c.

3. It shall be lawful for the persons making any such sale to insert any such special or other stipulations, either as to title or evidence of title, or otherwise, in any conditions of sale, or contract for sale, as they shall think fit; and also to buy in the property or any part thereof at any sale by auction, and to rescind or vary any contract for sale, and to re-sell the property which shall be so bought in, or as to which the contract shall be so rescinded, without being responsible for any loss which may be occasioned thereby; and no purchaser under any such sale shall be bound to enquire whether the persons making the same may or may not have in contemplation any particular re-investment of the purchase-money in the purchase of any other property or otherwise.

Trustees exercising power of sale, &c., empowered to convey.

4. For the purpose of completing any such sale as aforesaid, the persons empowered to sell as aforesaid shall have full power to convey or otherwise dispose of the property in question, in such manner as may be necessary.

Money arising from sales, to be laid out in the manner indicated in the will, &c.

5. The money so received upon any such sale as aforesaid shall be laid out in the manner indicated in that behalf in the will, deed or instrument containing the power of sale; and until the money to be received upon any sale as aforesaid shall be so disposed of, the same shall be invested at interest in Government

ernment securities for the benefit of such persons as would be entitled to the benefit of the money, and the interest and profits thereof, in case such money were then actually laid out as aforesaid: Provided that if the will, deed or instrument shall contain no such indication, the persons empowered to sell as aforesaid shall invest the money so received upon any such sale in their names upon Government securities in India, and the interest of such securities shall be paid and applied to such person or persons for such purposes and in such manner as the rents and profits of the property sold as aforesaid would have been payable or applicable in case such sale had not been made.

Until it is so laid out, money to be invested in Government securities.

Powers of Mortgagees.

6. Where any principal money is secured or charged by deed on any immoveable property, or on any interest therein, the person to whom such money shall for the time being be payable, his executors, administrators and assigns, shall, at any time after the expiration of one year from the time when such principal money shall have become payable, according to the terms of the deed, or after any interest on such principal money shall have been in arrear for six months, or after any omission to pay any premium on any insurance which by the terms of the deed ought to be paid by the person entitled to the property subject to the charge, have the following powers to the same extent (but no more) as if they had been in terms conferred by the person creating the charge, namely:—

Powers incident to mortgages.

1*st.*—A power to sell or concur with any other person in selling the whole or any part of the property by public auction or private contract, subject to any reasonable conditions he may think fit to make; and to rescind or vary contracts for sale, or buy in and re-sell the property, from time to time, in like manner:

2*nd.*—A power to appoint or obtain the appointment of a Receiver of the rents and profits of the whole or any part of the property in manner hereinafter mentioned.

7. Receipts for purchase money given by the person or persons exercising the power of sale hereby conferred, shall be sufficient discharges to the purchasers, who shall not be bound to see to the application of such purchase money.

Receipts for purchase money sufficient discharges.

8. No

8. No such sale as last aforesaid shall be made until after six months' notice in writing given to the person or one of the persons entitled to the property subject to the charge, or affixed on some conspicuous part of such property; but when a sale has been effected in professed exercise of the powers hereby conferred, the title of the purchaser shall not be liable to be impeached on the ground that no case had arisen to authorize the exercise of such power, or that no such notice as aforesaid had been given; but any person damnified by any such unauthorized exercise of such power, shall have his remedy in damages against the person or persons selling.

Notice to be given before sale; but purchaser relieved from inquiry as to circumstances of sale.

9. The money arising by any sale effected as aforesaid shall be applied by the person receiving the same as follows:—first, in payment of all the expenses incident to the sale or incurred in any attempted sale; secondly, in discharge of all interest and costs then due in respect of the charge in consequence whereof the sale was made; and thirdly, in discharge of all the principal monies then due in respect of such charge; and the residue of such money shall be paid to the person entitled to the property subject to the charge, his executors, administrators or assigns, as the case may be.

Application of purchase money.

10. The person exercising the power of sale hereby conferred shall have power by deed to convey or assign to and vest in the purchaser the property sold, for all the estate and interest therein which the person who created the charge had power to dispose of: Provided that nothing herein contained shall be construed to authorize the mortgagee of a term of years to sell and convey the fee simple of the property comprised therein in cases where the mortgagor could have disposed of such fee simple at the date of the mortgage.

Conveyance to the purchaser.

11. At any time after the power of sale hereby conferred shall have become exerciseable, the person entitled to exercise the same shall be entitled to demand and recover from the person entitled to the property subject to the charge, all the deeds and documents in his possession or power relating to the same property, or to the title thereto, which he would have been entitled to demand and recover if the same property had been conveyed, appointed or surrendered to and were then vested in him for all the estate and interest which the person creating the charge had power to dispose of; and where the legal estate shall be outstanding in a Trustee, the person entitled to a charge created by

Owner of charge may call for title deeds and conveyance of legal estate.

by a person equitably entitled, or any purchaser from such person, shall be entitled to call for a conveyance of the legal estate to the same extent as the person creating the charge could have called for such a conveyance if the charge had not been made.

Appointment of Receiver.

12. Any person entitled to appoint or obtain the appointment of a Receiver as aforesaid, may from time to time, if any person or persons has or have been named in the deed of charge for that purpose, appoint such person or any one of such persons to be Receiver, or if no person be so named, then may, by writing delivered to the person or any one of the persons entitled to the property subject to the charge, or affixed on some conspicuous part of the property, require such last-mentioned person or persons to appoint a fit and proper person as Receiver, and if no such appointment be made within ten days after such requisition, then may in writing appoint any person he may think fit. No person shall be ineligible for the office of Receiver merely because he is an Officer of the High Court.

Receiver deemed to be the agent of the mortgagor.

13. Every Receiver appointed as aforesaid shall be deemed to be the agent of the person entitled to the property subject to the charge, who shall be solely responsible for his acts or defaults, unless otherwise provided for in the charge.

Powers of Receiver.

14. Every Receiver appointed as aforesaid shall have power to demand and recover and give effectual receipts for all the rents, issues and profits of the property of which he is appointed Receiver, by suit, distress, or otherwise, in the name either of the person entitled to the property subject to the charge, or of the person entitled to the money secured by the charge, to the full extent of the estate or interest which the person who created the charge had power to dispose of.

Receiver may be removed.

15. Every Receiver appointed as aforesaid may be removed by the like authority, or on the like requisition as before provided with respect to the original appointment of a Receiver, and new Receivers may be appointed from time to time.

Receiver to receive a commission not exceeding five per cent.

16. Every Receiver appointed as aforesaid shall be entitled to retain out of any money received by him, in lieu of all costs, charges, and expenses whatsoever, such a commission, not exceeding five *per centum* on the gross amount of all money received, as

as shall be specified in his appointment, and if no amount shall be so specified, then five *per centum* on such gross amount.

Receiver to insure if required.

17. Every Receiver appointed as aforesaid shall, if so directed in writing by the person entitled to the money secured by the charge, insure and keep insured from loss or damage by fire, out of the money received by him, the whole or any part of the property included in the charge which is in its nature insurable.

Application of moneys received by him.

18. Every Receiver appointed as aforesaid shall pay and apply all the money received by him in the first place in discharge of Government revenue and of all taxes, rates and assessments whatsoever, and in payment of his commission as aforesaid, and of the premiums on the insurances, if any; and in the next place in payment of all the interest accruing due in respect of any principal money then charged on the property over which he is Receiver, or on any part thereof; and, subject as aforesaid, shall pay all the residue of such money to the person for the time being entitled to the property subject to the charge, his executors, administrators or assigns.

This Part to relate to charges by way of mortgage only.

19. The powers and provisions contained in Sections 6 to 18 of this Act, both inclusive, relate only to mortgages or charges made to secure money advanced or to be advanced by way of loan, or to secure an existing or future debt.

Leases.

Restriction on effect of license to alien.

20. Where any license to do any act which without such license would create a forfeiture, or give a right to re-enter, under a condition or power reserved in any lease heretofore granted, or to be hereafter granted, shall, at any time after this Act comes into operation, be given to any lessee or his assigns, every such license shall, unless otherwise expressed, extend only to the permission actually given, or to any specific breach of any proviso or covenant made or to be made, or to the actual assignment, under-lease or other matter thereby specifically authorized to be done, but not so as to prevent any proceeding for any subsequent breach (unless otherwise specified in such license); and all rights under covenants and powers of forfeiture and re-entry in the lease contained shall remain in full force and shall be available as against any subsequent breach of covenant or condition, assignment, under-lease, or other matter not specifically authorized or

ed or made dispunishable by such license, in the same manner as if no such license had been given; and the condition or right of re-entry shall be and remain in all respects as if such license had not been given, except in respect of the particular matter authorized to be done.

Restricted operation of partial licenses.

21. Where in any lease heretofore granted or to be hereafter granted, there is or shall be a power or condition of re-entry on assigning or under-letting, or doing any other specified act without license, and a license at any time after the passing of this Act shall be given to one of several lessees or co-owners to assign or under-let his share or interest, or to do any other act prohibited to be done without license; or shall be given to any lessee or owner, or any one of several lessees or owners, to assign or under-let part only of the property, or to do any other such act as aforesaid in respect of part only of such property, such license shall not operate to destroy or extinguish the right of re-entry in case of any breach of the covenant or condition by the co-lessee or co-lessees, or owner or owners, of the other shares or interests in the property, or by the lessee or owner of the rest of the property (as the case may be) over or in respect of such shares or interests or remaining property, but such right of re-entry shall remain in full force over or in respect of the shares or interests or property not the subject of such license.

Apportionment of conditions of re-entry in certain cases.

22. Where the reversion upon a lease is severed, and the rent or other reservation is legally apportioned, the assignee of each part of the reversion shall, in respect of the apportioned rent or other reservation allotted or belonging to him, have and be entitled to the benefit of all conditions or powers of re-entry for non-payment of the original rent or other reservation, in like manner as if such conditions or powers had been reserved to him as incident to his part of the reversion in respect of the apportioned rent or other reservation allotted or belonging to him.

Rent-charges.

Release of part of land charged, not to be an extinguishment.

23. The release from a rent-charge of part of the immoveable property charged therewith shall not extinguish the whole rent-charge, but shall operate only to bar the right to recover any part of the rent-charge out of the property released, without prejudice nevertheless to the rights of all persons interested in the property remaining unreleased, and not concurring in or confirming the release.

Powers

Powers.

Mode of execution of powers.

24. A deed hereafter executed in the presence of and attested by two or more witnesses in the manner in which deeds are ordinarily executed and attested, shall, so far as respects the execution and attestation thereof, be a valid execution of a power of appointment by deed or by any instrument in writing not testamentary, notwithstanding it shall have been expressly required that a deed or instrument in writing made in exercise of such power should be executed or attested with some additional or other form of execution or attestation or solemnity: Provided always, that this provision shall not operate to defeat any direction in the instrument creating the power, that the consent of any particular person shall be necessary to a valid execution, or that any act shall be performed in order to give validity to any appointment, having no relation to the mode of executing and attesting the instrument: and nothing herein contained shall prevent the donee of a power from executing it conformably to the power by writing or otherwise than by an instrument executed and attested as an ordinary deed, and to any such execution of a power this provision shall not extend.

Legatee in trust may raise money by sale, notwithstanding want of express power in the will.

25. Where by any will which shall come into operation after the passing of this Act, the testator shall have charged his immoveable property or any specific portion thereof with the payment of his debts, or with the payment of any legacy or other specific sum of money, and shall have bequeathed the property so charged to any Trustee or Trustees for the whole of his estate or interest therein, and shall not have made any express provision for the raising of such debt, legacy or sum of money out of such property, it shall be lawful for the said legatee or legatees in trust, notwithstanding any trusts actually declared by the testator, to raise such debts, legacy or money as aforesaid by sale and absolute disposition by public auction or private contract, of the said property or any part thereof, or by a mortgage of the same, or partly in one mode and partly in the other; and any deed or deeds of mortgage so executed may reserve such rate of interest and fix such period or periods of repayment as the person or persons executing the same shall think proper.

Powers given by last Section extended to survivors, legatees, &c.

26. The powers conferred by the last preceding Section shall extend to all and every person or persons in whom the property bequeathed in trust shall for the time being be vested by survivorship, or under the laws relating to intestate or testa-

mentary

mentary succession, or to any person or persons who may be appointed under any power in the will, or by the High Court, to succeed to the trusteeship vested in such legatee or legatees in trust as aforesaid.

Executors to have power of raising money, &c., where there is no sufficient bequest.

27. If any testator who shall have created such a charge as is described in Section 25 of this Act, shall not have bequeathed the property charged as aforesaid in such terms as that his whole estate and interest therein shall become vested in any Trustee or Trustees, the executor or executors (if any) for the time being named in such will, shall have the same or the like power of raising the said moneys as is hereinbefore vested in the legatee or legatees in trust of the said property, and such power shall from time to time devolve on and become vested in the person or persons (if any) in whom the executorship shall for the time being be vested.

Purchasers, &c, not bound to enquire as to powers.

28. Purchasers or mortgagees shall not be bound to enquire whether the powers conferred by Sections 25, 26 and 27 of this Act, or any of them, shall have been duly and correctly exercised by the person or persons acting in virtue thereof.

Inheritance.

Descent how to be traced.

29. In cases of intestacies occurring before the first day of January 1866, where there shall be a total failure of heirs of the purchaser, or where any immoveable property shall be descendible as if an ancestor had been the purchaser thereof, and there shall be a total failure of the heirs of such ancestor, then and in every such case the property shall descend, and the descent shall thenceforth be traced from the person last entitled to the property as if he had been the purchaser thereof. This Section shall be read as part of Act No. XXX of 1839 *(for the amendment of the law of inheritance)*.

Assignment of Moveables and Terms for Years.

Assignment to self and others.

30. Any person shall have power to assign moveable property now by law assignable, terms for years of immoveable property, and estates by *elegit*, directly to himself and another person or other persons or corporation, by the like means as he might assign the same to another.

Purchasers.

Purchasers.

Not to be bound to see to the application of purchase money, &c.

31. The *bonâ fide* payment to and the receipt of any person to whom any purchase or mortgage money shall be payable upon any express or implied trust, shall effectually discharge the person paying the same from seeing to the application, or being answerable for the misapplication thereof.

Investment of Trust Funds.

On what securities trust funds may be invested.

32. Trustees having trust money in their hands which it is their duty to invest at interest, shall be at liberty, at their discretion, to invest the same in any Government securities, and such Trustees shall also be at liberty, at their discretion, to call in any trust funds invested in any other securities than as aforesaid, and to invest the same on any such securities as aforesaid, and also from time to time, at their discretion, to vary any such investments as aforesaid for others of the same nature: Provided always, that no such original investment as aforesaid, and no such change of investment as aforesaid, shall be made where there is a person under no disability entitled in possession to receive the income of the trust fund for his life, or for a term of years determinable with his life, or for any greater estate, without the consent in writing of such person.

Trustees and Executors.

Trustees may apply income of property of minors, &c., for their maintenance.

33. In all cases where any property is held by Trustees in trust for a minor, either absolutely or contingently on his attaining majority, or on the occurrence of any event previously to his attaining majority, it shall be lawful for such Trustees, at their sole discretion, to pay to the guardians (if any) of such minor, or otherwise to apply for or towards the maintenance or education of such minor, the whole or any part of the income to which such minor may be entitled in respect of such property, whether there be any other fund applicable to the same purpose, or any other person bound by law to provide for such maintenance or education, or not; and such Trustees shall accumulate all the residue of such income by way of compound interest, by investing the same and the resulting income thereof from time to time in proper securities, for the benefit of the person who shall ultimately become entitled to the property from which such accumulations shall have arisen: Provided always, that it shall be lawful for such Trustees at any time, if it shall appear to them expedient, to apply the whole or any part of

of such accumulations as if the same were part of the income arising in the then current year.

Provisions for appointment of new Trustees, on death, &c.

34. Whenever any Trustee, either original or substituted, and whether appointed by any High Court or otherwise, shall die, or be six months absent from British India, or desire to be discharged from, or refuse, or become unfit or incapable to act in the trusts or powers in him reposed, before the same shall have been fully discharged and performed, it shall be lawful for the person or persons nominated for that purpose by the deed, will, or other instrument creating the trust (if any), or if there be no such person, or no such person able and willing to act, then for the surviving or continuing Trustees or Trustee for the time being, or the acting executors or executor, or administrators or administrator of the last surviving and continuing Trustee, or for the retiring Trustees, if they shall all retire simultaneously, or for the last retiring Trustee, or where there are two or more classes of Trustees of the instrument creating the trust, then for the surviving or continuing Trustees or Trustee of the class in which any such vacancy or disqualification shall occur (and for this purpose any refusing or retiring Trustee shall, if willing to act in the execution of the power, be considered a continuing Trustee) by writing to appoint any other person or persons to be a Trustee or Trustees in the place of the Trustee or Trustees so dying, or being absent from British India, or desiring to be discharged, or refusing or becoming unfit or incapable to act as aforesaid. So often as any new Trustee or Trustees shall be so appointed as aforesaid, all the trust property (if any) which for the time being shall be vested in the surviving or continuing Trustees or Trustee, or in the heirs or administrators of any Trustee, shall with all convenient speed, be conveyed and transferred so that the same may be legally and effectually vested or discharged in such new Trustee or Trustees, either solely or jointly with the executing or continuing Trustees or Trustee, as the case may require. Every new Trustee to be appointed as aforesaid, as well before as after such conveyance or transfer as aforesaid, and also every Trustee appointed by any High Court either before or after the passing of this Act, shall have the same powers, authorities, and discretions, and shall in all respects act as if he had been originally nominated a Trustee by the deed, will, or other instrument (if any) creating the trust. The Official Trustee may with his consent, and by the order of the High Court, be appointed under this Section in any case in which only one Trustee is to be appointed and such Trustee is to be the sole Trustee.

35. The

Appointment of new Trustee in place of Trustee predeceasing testator.

35. The power of appointing new Trustees hereinbefore contained, may be exercised in cases where a Trustee nominated in a will has died in the life-time of the testator.

Trustees' receipts to be discharges.

36. The receipts in writing of any Trustees or Trustee for any money payable to them or him by reason, or in the exercise, of any trusts or powers reposed or vested in them or him, shall be sufficient discharges for the money therein expressed to be received, and shall effectually exonerate the persons paying such money from seeing to the application thereof, or from being answerable for any loss or misapplication thereof.

Every trust instrument to be deemed to contain clauses for the indemnity and reimbursement of the Trustees.

37. Every deed, will, or other instrument creating a trust either expressly or by implication, shall, without prejudice to the clauses actually contained therein, be deemed to contain a clause in the words or to the effect following, that is to say, "that the Trustees or Trustee for the time being of the said deed, will, or other instrument, shall be respectively chargeable only for such moneys, stocks, funds and securities, as they shall respectively actually receive, notwithstanding their respectively signing any receipt for the sake of conformity, and shall be answerable and accountable only for their own acts, receipts, neglects, or defaults, and not for those of each other, nor for any banker, broker or other person with whom any trust moneys or securities may be deposited, nor for the insufficiency or deficiency of any stocks, funds, or securities, nor for any other loss, unless the same shall happen through their own wilful default respectively; and also that it shall be lawful for the Trustees or Trustee for the time being of the said deed, will, or other instrument, to reimburse themselves or himself, or pay or discharge out of the trust premises all expenses incurred in or about the execution of the trusts or powers of the said deed, will, or other instrument."

Executors may compound, &c.

38. It shall be lawful for any executors to pay any debts or claims upon any evidence that they may think sufficient, and to accept any composition, or any security for any debts due to the deceased, and to allow any time for payment of any such debts as they shall think fit, and also to compromise, compound, or submit to arbitration all debts, accounts, claims, and things whatsoever relating to the estate of the deceased, and for any of the purposes aforesaid to enter into, give, and

and execute such agreements, instruments of composition, releases, and other things as they shall think expedient, without being responsible for any loss to be occasioned thereby.

Trustee, &c., making payment under power of attorney, not to be liable by reason of death of party giving such power.

39. No Trustee, executor or administrator making any payment or doing any act *bonâ fide* under or in pursuance of any power of attorney, shall be liable for the moneys so paid or the act so done, by reason that the person who gave the power of attorney was dead at the time of such payment or act, or had done some act to avoid the power: Provided that the fact of the death, or of the doing of such act as last aforesaid, at the time of such payment or act *bonâ fide* done as aforesaid by such Trustee, executor or administrator, was not known to him: Provided always, that nothing herein contained shall in any manner affect or prejudice the right of any person entitled to the money against the person to whom such payment shall have been made; but that such person so entitled shall have the same remedy against such person to whom such payment shall be made as he would have had against the Trustee, executor or administrator, if the money had not been paid away under such power of attorney.

As to liability of executor or administrator in respect of rents, covenants, or agreements.

40. Where an executor or administrator liable as such to the rents, covenants, or agreements contained in any lease or agreement for a lease granted or assigned, whether before or after the passing of this Act, to the testator or intestate whose estate is being administered, shall have satisfied all such liabilities under the said lease, or agreement for a lease as may have accrued due and been claimed up to the time of the assignment hereinafter mentioned, and shall have set apart a sufficient fund to answer any future claim that may be made in respect of any fixed and ascertained sum covenanted or agreed by the lessee to be laid out on the property demised or agreed to be demised, although the period for laying out the same may not have arrived, and shall have assigned the lease or agreement for a lease to a purchaser thereof, he shall be at liberty to distribute the residuary estate of the deceased to and amongst the parties entitled thereto, respectively, without appropriating any part, or any further part (as the case may be) of the estate of the deceased to meet any future liability under the said lease or agreement for a lease. The executor or administrator so distributing the residuary estate shall not, after having assigned the said lease or agreement for a lease, and having, where necessary, set apart such sufficient

fund

fund as aforesaid, be personally liable in respect of any subsequent claim under the said lease or agreement for a lease. Nothing herein contained shall prejudice the right of the lessor or those claiming under him to follow the assets of the deceased into the hands of the person or persons to or amongst whom the said assets may have been distributed.

As to liability of executor, &c., in respect of rents, &c. in conveyance on rent-charge.

41. In like manner, where an executor or administrator liable as such to the rent, covenants, or agreements contained in any conveyance on chief rent or rent-charge (whether any such rent be by limitation of use, grant, or reservation), or agreement for such conveyance, granted or assigned to or made and entered into with the testator or intestate whose estate is being administered, shall have satisfied all such liabilities under the said conveyance or agreement for a conveyance, as may have accrued due and been claimed up to the time of the conveyance hereinafter mentioned, and shall have set apart a sufficient fund to answer any future claim that may be made in respect of any fixed and ascertained sum covenanted or agreed by the grantee to be laid out on the property conveyed, or agreed to be conveyed, although the period for laying out the same may not have arrived, and shall have conveyed such property, or assigned the said agreement for such conveyance as aforesaid, to a purchaser thereof, he shall be at liberty to distribute the residuary estate of the deceased to and amongst the parties entitled thereto, respectively, without appropriating any part or any further part (as the case may be) of such estate to meet any future liability under the said conveyance, or agreement for a conveyance. The executor or administrator so distributing the residuary estate shall not, after having made or executed such conveyance or assignment, and having, where necessary, set apart such sufficient fund as aforesaid, be personally liable in respect of any subsequent claim under the said conveyance, or agreement for conveyance. Nothing herein contained shall prejudice the right of the grantor, or those claiming under him, to follow the assets of the deceased into the hands of the person or persons to or among whom the said assets may have been distributed.

As to distribution of the assets of testator or intestate after notice given by executor and administrator.

42. Where an executor or administrator shall have given such or the like notices, as in the opinion of the Court in which such executor or administrator is sought to be charged would have been given by the High Court in an administration suit, for creditors and others to send in to the executor or administrator

administrator their claims against the estate of the testator or intestate, such executor or administrator shall, at the expiration of the time named in the said notices, or the last of the said notices, for sending in such claims, be at liberty to distribute the assets of the testator or intestate, or any part thereof, amongst the parties entitled thereto, having regard to the claims of which such executor or administrator has then notice, and shall not be liable for the assets or any part thereof so distributed to any person of whose claim such executor or administrator shall not have had notice at the time of distribution of the said assets or a part thereof, as the case may be. Nothing in the present Act contained shall prejudice the right of any creditor or claimant to follow the assets or any part thereof into the hands of the person or persons who may have received the same respectively.

Trustee, executor, &c., may apply by petition to Judge of High Court for opinion, advice, &c., in management, &c., of trust property.

43. Any Trustee, executor or administrator shall be at liberty, without the institution of a suit, to apply by petition to any Judge of the High Court for the opinion, advice or direction of such Judge on any question respecting the management or administration of the trust property or the assets of any testator or intestate. Such application shall be served upon, or the hearing thereof shall be attended by, all persons interested in such application, or such of them as the said Judge shall think expedient. The Trustee, executor or administrator acting upon the opinion, advice or direction given by the said Judge shall be deemed, so far as regards his own responsibility, to have discharged his duty as such Trustee, executor or administrator in the subject matter of the said application : Provided nevertheless, that this Act shall not extend to indemnify any Trustee, executor or administrator, in respect of any act done in accordance with such opinion, advice or direction as aforesaid, if such Trustee, executor or administrator shall have been guilty of any fraud or wilful concealment or misrepresentation in obtaining such opinion, advice or direction : and the costs of such application as aforesaid shall be in the discretion of the Judge to whom the said application shall be made.

General Provisions.

Tenants for life, &c., may execute powers, notwithstanding incumbrances.

44. For the purposes of this Act, a person shall be deemed to be entitled to the possession or to the receipt of the rents and income of immoveable or moveable property, although his estate may be charged or incumbered, either by himself or by any former owner, or otherwise howsoever to any extent ; but the estates or interests of the parties

parties entitled to any such charge or incumbrance shall not be affected by the acts of the person entitled to the possession or to the receipt of the rents and income as aforesaid, unless they shall concur therein.

Operation of Act.

45. The provisions contained in this Act shall, except as hereinbefore otherwise provided, extend only to persons entitled or acting under a deed, will, codicil or other instrument executed after this Act comes into operation, or under a will or codicil confirmed or revived by a codicil executed after that date, and only to property in British India and to cases to which English law is applicable.

Short title.

46. This Act may be called "the Trustees and Mortgagees' Powers' Act, 1866".

From first February 1867, Act to apply to Straits' Settlement.

47. On and after the first day of February 1867, but not till then, this Act shall apply to the Settlement of Prince of Wales' Island, Singapore and Malacca; and, in the said Settlement, Section 29 of this Act shall be read as if the words and figures "first day of February 1867" were substituted for the words and figures, "first day of January 1866."

Military Orphan Press.—No. 20 L. C.—22-11-66.—2400.

ACT No. XXIX of 1866.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 24th October 1866.)

An Act to enlarge the jurisdiction of the Courts of Requests in the Settlement of Prince of Wales' Island, Singapore and Malacca.

Preamble.

Whereas by the Letters Patent reconstituting the Court of Judicature of Prince of Wales' Island, Singapore and Malacca, Her Majesty, among other things, authorized and empowered the Governor or President and Council of the said Settlement for the time being to erect and establish such Court or Courts of Judicature as they should see fit for the recovery of small debts, and for the trial and determination of all suits and causes whatsoever against any of the inhabitants of the said Settlement, wherein the debt, duty, or matter in dispute should not exceed the value of thirty-two dollars; and whereas under the said authority, Courts of Requests have been established at Penang, Province Wellesley, Singapore and Malacca; and whereas it is expedient that the said Courts, and also any other Courts which may hereafter be established under the said authority, should have jurisdiction in all suits wherein the matter in dispute shall not exceed the value of fifty dollars; It is enacted as follows:—

Courts of Requests authorized to try suits to an amount or value not exceeding 100 dollars.

1. From and after the passing of this Act, any Court or Courts established or which may be established in the Settlement of Prince of Wales' Island, Singapore and Malacca, under the said authority, shall have jurisdiction to try and determine all suits brought for the recovery of debts, and all suits and causes whatever against any of the inhabitants of the said Settlement or the places now, or at any time hereafter to be, subordinate or annexed thereto, wherein the debt, duty, or matter in dispute shall not exceed the value of fifty dollars.

Appointment, remuneration and removal of Bailiffs and Appraisers.

2. It shall be lawful for the Commissioners of the Courts of Requests respectively in the several Stations of the Settlement of Prince of Wales' Island, Singapore and Malacca, to appoint four or more persons to be Bailiffs and Appraisers for the purposes of

PRICE THREE ANNAS.

of this Act, and with the sanction of the Governor of the said Settlement to fix such remuneration for the services of the said Officers as shall appear to the said Commissioners expedient, and such persons shall be duly sworn before the said Commissioners, and shall also give security, to be approved by the said Commissioners, faithfully to discharge the duties of their office, and the said Commissioners shall have power to suspend or remove such persons so appointed: Provided that it shall be lawful for the said Commissioners respectively to appoint the Bailiffs who may be attached from time to time to the said Courts respectively to the office of Distraining Bailiffs and Appraisers, for the purposes of this Act, and to award to the said Officers such remuneration, in addition to their respective salaries drawn from the said Courts, as to the said Commissioners with the sanction of the Governor of the said Settlement shall appear expedient.

Issue of distress warrant.

3. It shall be lawful for any Commissioner of a Court of Requests in any such Station, upon the affidavit in the form contained in the Schedule to this Act annexed (marked D) of any party claiming to be entitled to arrears of rent of any house or premises situate in such Station, not exceeding the amount of fifty dollars, or in case of absence of such party from such Station, or in case of respectable females who do not appear in public, upon the affidavit of the constituted Attorney of such party, stating the amount of such arrears, and for what time and at what rate the same became due, to issue a warrant under his hand and seal, in the form contained in the Schedule to this Act annexed (marked A) addressed to any one of such Officers of such Court, directing him to levy the amount of such rent, together with the costs of the said distress, in the manner therein mentioned: Provided that it shall be lawful for any of the said Commissioners, upon personal examination of the party applying for such warrant, to grant or withhold the same, at the discretion of the said Commissioner.

Seizure of goods and chattels.

4. By virtue of such warrant, it shall be lawful for such Officer to seize the whole or such part of the goods and chattels upon the said premises as shall be sufficient to cover the amount of the said rent, together with the costs of the said distress, and he shall thereupon make an inventory of the goods and chattels so seized, and shall give a notice in writing in the form in the Schedule to this Act annexed (marked B) to the party from whom such rent is claimed to be due, or to any other person upon behalf of such party upon the said premises, that the said goods and chattels

chattels will be appraised and sold in manner therein mentioned. And the said Officer shall file in the Court of Requests, from which the warrant issued, true copies of the said inventory and notice: Provided that it shall be lawful for the party from whom such rent is claimed to be due, at any time within five days from such seizure, to apply to any Commissioner of such Court to discharge or suspend such warrant, and it shall be lawful for such Commissioner to discharge or suspend such warrant accordingly, with or without costs: Provided that it shall be lawful for any of the said Commissioners in his discretion to give reasonable time to such party to pay the said rent.

Sale of goods and chattels.

5. In default of such application, it shall be lawful for any two of such Officers of such Court, at the expiration of five days from such seizure, to appraise the goods and chattels so seized, and to give notice in writing in the form in the Schedule to this Act annexed (marked E) of the sale thereof, at such time and place as they shall direct, after an interval of not less than two days; and they shall file in such Court a true copy of the said notice, and that the same shall be sold accordingly, and the said Officers shall forthwith, after realization of the produce of the said sale, pay over the amount thereof to the Chief Clerk of the said Court, or other Head Officer of such Court, and the amount of such produce shall be applied in satisfaction of the sum claimed to be due, together with the costs of the said distress, and the surplus, if any, shall be returned to the party from whom the said rent was claimed to be due: Provided that it shall be lawful for such party to direct that such sale shall take place in any other manner, such party giving security for any extra costs attending such mode of sale.

Costs of distress.

6. No costs shall be taken or demanded for such distress, except those contained in the Schedule to this Act annexed (marked C), and it shall be lawful for the said Commissioners of the Court out of which such distress is issued, with the sanction of the Governor of the said Settlement, to apply the sum so raised as costs towards the payment of the contingent charges and remuneration of the said Bailiffs and Appraisers, as shall appear to the said Commissioners expedient, and the Chief Clerk or other Head Officer of the said Court shall keep a book, in which all sums received as costs upon distresses made under the provisions of this Act, and all sums paid as remuneration to the said Bailiffs and Appraisers, and all contingent charges incurred in respect of such distresses shall be duly entered, and the Chief Clerk

or

or other Officer, as aforesaid, of the said Court, shall also enter in the said book all sums realized by sale of the goods and chattels distrained and paid over to the landlords, under the provisions of this Act.

No distress for arrears of rent amounting to fifty dollars except under this Act.

Penalty.

7. After the passing of this Act, no distress shall be levied for arrears of rent amounting to fifty dollars or less, except under the provisions of this Act; and any person, except such Officer as shall be appointed under this Act, levying or attempting to levy any such distress, shall be guilty of a misdemeanor, and shall be liable to be punished by fine and imprisonment for the same, in addition to any other liability he may have incurred by such trespass.

Act not to apply to rent due to Government.

8. This Act shall not extend to any arrears of rent exceeding fifty Dollars, nor in respect of any house or premises situate out of the local jurisdiction of any such Court, nor to any rent due to Government, nor to any seizure, except on the premises in respect of which such rent is claimed.

Seal of Court.

9. A seal shall be made for every Court of Requests in the said Settlement under the direction of the Governor of the said Settlement, and all summonses and other process issuing out of any such Court shall be sealed or stamped with the seal of the Court; and every person who shall forge the seal or any process of any such Court, or who shall serve or enforce any such forged process knowing the same to be forged, or deliver or cause to be delivered to any person any paper falsely purporting to be a copy of any summons or other process of such Court, knowing the same to be false, or who shall act or profess to act under any false colour or pretence of the process of the said Court, shall be guilty of felony.

Mode of examining witnesses

10. Every person who shall give evidence in any Court of Requests in the said Settlement shall be examined on oath, or when exempt by law from taking an oath, on solemn affirmation; and every person who, in any examination upon oath or solemn affirmation under this Act, shall wilfully and corruptly give false evidence, shall be deemed guilty of perjury.

Summonses to witnesses.

11. Either of the parties to a suit or any other proceeding in any Court of Requests in the said Settlement may obtain, at the Office of the Clerk of such Court or other Officer as aforesaid, summonses

summonses to witnesses, with or without a clause requiring the production of books, deeds, papers and writings in their possession or control, and in any such summons any number of names may be inserted.

Penalty for witness not appearing, &c.

12. Every person on whom any such summons shall have been served, either personally or in such other manner as shall be directed by the general rules or practice of the Court of Requests out of which such summons shall issue, and who shall refuse or neglect, without sufficient cause, to appear or to produce any books, papers, or writings required by such summons to be produced, and also every person present in any such Court, who shall be required to give evidence, and who shall refuse to be sworn and give evidence, shall forfeit and pay such fine, not exceeding fifty dollars, as the Commissioners of such Court shall impose on him, and the whole or any part of such fine in the discretion of the Commissioners after deducting the costs, may be applied towards indemnifying the party injured by such refusal or neglect.

Issue of warrant for arrest of defendant evading process or concealing property.

13. The Commissioners of any Court of Requests in the said Settlement, in all suits where the debt or demand exceeds the sum of fifteen dollars, upon proof before them that any defendant against whom a summons has been taken out conceals himself from, or otherwise evades process of, such Court, or is disposing of his property and effects, with intent to defraud the plaintiff or his creditors generally, or is about to withdraw his person or effects from the jurisdiction of such Court, may issue a warrant for the apprehension of such person, and may commit him to gaol, until he shall find security for his appearance in such Court, from time to time, until judgment shall be pronounced in the suit commenced by such summons, and for payment of the amount and the costs which may be decreed against him therein.

Enforcement of fines.

14. Payment of any fine imposed by any Court of Requests under the authority of this Act may be enforced upon the order of the Commissioners of such Court in like manner as payment of any debt adjudged in the said Court, and shall be accounted for as herein provided.

Execution may issue either against person or property of debtor.

15. Whenever any Court of Requests in the said Settlement shall have made an order for the payment of money, the amount shall be recoverable, in case of default or failure of payment thereof forthwith, or at the time or times and in the manner directed,

directed, by execution against the body or the goods and chattels of the person against whom such order is made, without further notice or order, and the Clerk of the said Court or other Officer as aforesaid, at the request of the person prosecuting such order, shall issue under the seal of the Court a writ of execution to one of the Bailiffs of such Court, which shall be his warrant to take the body of such person in execution, or to levy, or cause to be levied by distress and sale of the goods and chattels of such person, such sum of money as shall be so ordered, wheresoever they may be found within the district of the Court, and also the costs of the execution; and all Constables and other Peace Officers within their several jurisdictions shall aid in the execution of every such writ.

In case of order to pay by instalments, execution to issue on default of payment, without further notice.

16. If any such Court shall have made any order for payment of any sum of money by instalments, execution upon such order shall not issue until after default in payment of some instalment according to such order; and execution or successive executions may then issue without further notice or order for the whole of the said sum of money and costs then remaining unpaid, or for such portion thereof as such Court shall order, either at the time of making the original order, or at any subsequent time, under the seal of the Court.

Warrants in execution against the body.

17. Whenever any warrant shall issue for taking in execution the body of any person under this Act, the Bailiffs of the Court of Requests out of which such warrant shall issue, shall be empowered, by virtue thereof, to take and convey him to any prison appointed by the Governor of the Settlement to be the prison of such Court, there to remain for such term as shall be directed by the warrant not longer than six calendar months, or until he shall sooner perform the order of such Court.

No person to be twice imprisoned, nor execution against body and goods to issue at the same time under same judgment.

18. No person shall be imprisoned twice under the same judgment, nor shall execution against the body and goods issue at the same time under the same judgment.

Warrants in execution against goods.

19. Every Bailiff executing any process of execution issuing out of any such Court against the goods of any person, may, by virtue thereof, seize and take any of the goods of such person (excepting the necessary wearing apparel and bedding of such person or his family, and the tools and implements of his trade), and may also seize and take

take any money or bank notes, and any cheques, bills of exchange, promissory notes, bonds, specialties or securities for money belonging to any such person against whom any execution shall have issued as aforesaid.

Penalty for contempts of Court.

20. If any person shall wilfully insult any Commissioner, Clerk, or Officer of any such Court, for the time being, during his sitting or attendance in Court, or, shall wilfully interrupt the proceedings of any such Court, or otherwise misbehave in any such Court, it shall be lawful for any Bailiff or Officer of the Court, with or without the assistance of any other person, by the order of a Commissioner of such Court, to take such offender into custody, and detain him until the rising of such Court; and the Commissioners shall be empowered, if they shall think fit, by a warrant under their hands and sealed with the seal of the Court, to commit any such offender to any prison to which they have power to commit offenders under this Act, for any time not exceeding seven days, or to impose upon any such offender a fine not exceeding twenty-five dollars for every such offence, and in default of payment thereof to commit the offender to any such prison as aforesaid, for any time not exceeding seven days, unless the said fine be sooner paid, or instead of inflicting summary punishment under this Act, may cause the offender to be indicted in the Court of Judicature if the offence be an indictable misdemeanor.

Penalty for assaulting Bailiff, &c., in execution of duty.

21. If any Officer or Bailiff of any such Court shall be assaulted while in the execution of his duty, or if any rescue shall be made or attempted to be made of any person arrested or goods levied under process of any such Court, the person so offending shall be liable to a fine not exceeding fifty dollars, to be recovered by order of such Court, or before a Magistrate, and the Bailiff of the Court, or any Peace Officer in any such case, may take the offender into custody (with or without warrant) and bring him before such Court or Magistrate accordingly.

Penalty for Bailiff neglecting, &c., to execute warrant.

22. If any Bailiff of any such Court, who shall be employed to execute any warrant of any such Court, shall, by neglect, or connivance, or omission, lose an opportunity of executing such warrant, then, upon complaint of the party aggrieved by reason of such neglect, connivance, or omission (and the fact alleged being proved to the satisfaction of the Court), the Commissioners of such Court shall order the Bailiff to pay such damages as it shall appear that the plaintiff has sustained thereby, not exceeding in any case the sum of money for which the said execution

tion is issued, and the Bailiff shall be liable thereto, and upon demand made therefor, and on his refusal so to pay and satisfy the same, payment thereof shall be enforced by such ways and means as are herein provided for enforcing a judgment recovered in the said Court, without prejudice nevertheless to the execution of the original warrant.

Penalty for misconduct on part of Clerk, Bailiff, &c.

23. If any Clerk, Bailiff, or other Officer of any such Court acting under colour or pretence of the process of the said Court shall be charged with extortion or misconduct, or with not duly paying or accounting for any money levied by him under the authority of this Act, the Commissioners of such Court may enquire into such matter in a summary way, and for that purpose may summon and enforce the attendance of all necessary parties in like manner as the attendance of witnesses in any case may be enforced, and may make such order thereupon for the re-payment of any money extorted, or for the due payment of any money so levied as aforesaid, and for the payment of such damages and costs, as they shall think just, and also if they shall think fit, may impose such fine upon the Clerk, Bailiff, or Officer, not exceeding fifty dollars for each offence, as they shall deem adequate, and in default of payment of any money so ordered to be paid, payment of the same may be enforced by such ways and means as are herein provided for enforcing a judgment recovered in the said Court.

Penalty for Clerk, &c., taking bribe.

24. Every Clerk, Bailiff, or other Officer employed in putting any of the powers of this Act in execution, who shall wilfully and corruptly exact, take, or accept any fee or reward whatsoever, other than his lawful salary, for any thing done or to be done by virtue of this Act, or on any account whatsoever relative to putting this Act into execution, shall, upon proof thereof before the Court in which such Clerk, Bailiff, or Officer is employed, and, in the case of a Clerk, on confirmation of the finding of the Court by the Governor of the said Settlement, be for ever incapable of serving or being employed under this Act in any office of profit or emolument, and shall also be liable for damages as herein provided.

Provision for cases of erroneous execution of process.

25. If any claim shall be made to or in respect of any goods or chattels taken in execution under the process of any Court of Requests under this Act, or in respect of the proceeds or value thereof, by any person not being the party against whom such process has issued, the Clerk of such Court or other Officer as aforesaid, upon application of the Officer charged with the execution of such process,

as

as well before as after any action brought against such Officer, may issue a summons, calling before the said Court, as well the party issuing such process as the party making such claim, and thereupon any action which shall have been brought in the Court of Judicature in respect of such claim, shall be stayed, and the Judge of the Court of Judicature, on proof of the issue of such summons, and that the goods and chattels were so taken in execution, may order the party bringing such action to pay the costs of all proceedings had upon such action, after the issue of such summons out of such Court of Requests; and the Commissioners of such Court of Requests shall adjudicate upon such claim, and make such order between the parties in respect thereof, and of the costs of the proceedings as to them shall seem fit, and such order shall be enforced in like manner as any order made in any suit brought in such Court.

Limit of damages in actions against Clerk, &c

26. If any person shall bring any suit in any Court of Judicature in the said Settlement in respect of any grievance committed by the Clerk, Bailiff, or Officer of any Court of Requests within the jurisdiction of such Court of Judicature under colour or pretence of the process of the said Court of Requests, and upon the trial of the action no greater damages shall be found for the plaintiff than the sum of two hundred and fifty dollars, no costs shall be awarded to the plaintiff in such action, unless the Judge shall certify in Court, upon the back of the record, that the action was fit to be brought in the Court of Judicature.

Form of conviction.

27. In all cases where any conviction shall be had for any offence committed against this Act, the form of conviction may be in the words or to the effect following (that is to say), Be it remembered that on this day of in the year *A B* is convicted before a Magistrate for the or before a Commissioner acting under Act No. XXIX of 1866 of having (*state the offence*) and I (*or* we) the said do adjudge the said to forfeit and pay for the same the sum of [*or* to be committed to for the space of] Given under hand ( ) and seal ( ) the day and year aforesaid.

No order, &c., to be quashed for want of form.

28. No order, verdict of judgment, or other proceeding, made concerning the matters aforesaid, shall be quashed or vacated for want of form.

29. Where

29. Where any distress shall be made for any sum of money to be levied by virtue of this Act, the distress itself shall not be deemed unlawful, nor the party making the same be deemed a trespasser, on account of any defect or want of form in the information, summons, conviction, warrant of distress or other proceeding relating thereto, nor shall the party distraining be deemed a trespasser from the beginning on account of any irregularity which shall afterwards be committed by the party so distraining, but the person aggrieved by such irregularity may recover full satisfaction for the special damage in an action upon the case.

Distress not unlawful on account of defect or informality.

30. All actions and prosecutions to be commenced against any person for any thing done in pursuance of this Act shall be commenced within three calendar months after the fact committed, and not afterwards, and notice in writing of such action, and of the cause thereof, shall be given to the defendant one calendar month at least before the commencement of the action; and no plaintiff shall recover in any such action, if tender of sufficient amends shall have been made before such action is brought, or if after action brought a sufficient sum of money shall have been paid into Court, with costs by or on behalf of the defendant.

Limitation of actions.

SCHEDULE.

A.

In the Court of Requests in and for the Station of (as the case may be).

FORM OF WARRANT.

I hereby direct you to distrain the goods and chattels on the premises of A B, situate in in the for the sum of dollars, being the amount of months' rent due to C D for the same on the day of last, according to the provisions of the Act No. XXIX of 1866. Dated *first* day of *May*.

(Signed and Sealed)

To

E F.

Sworn Bailiff and Appraiser.

B.

B.

In the Court of Requests in and for the Station of (as the case may be).

FORM OF INVENTORY AND NOTICE.

(*State particulars of goods seized*).

Take notice that I have this day seized the goods and chattels contained in the above inventory for the sum of dollars, being the amount of months' rent due to C D at last, and that unless you pay the amount thereof, together with the costs of this distress, within five days from the date hereof, or obtain an order from one of the Commissioners of the Court of Requests to the contrary, the same will be appraised and sold, pursuant to the provisions of the Act No. XXIX of 1866.

(Signed) E F,

Sworn Bailiff and Appraiser.

To

A B.

C.

In the Court of Requests in and for the Station of

SCALE OF FEES TO BE LEVIED IN DISTRAINTS FOR HOUSE-RENT.

SUMS SUED FOR.	Affidavit, Warrant to distrain, Notices, &c.	Order to sell.	Commission.	Total.	Remarks.
	Dol. Ct.	Dol. Ct.	Dol. Ct.	Dol. Ct.	
1 and under 10 dollars	0—50	Twenty-five cents.	Five per cent.		
10 „ „ 20 „	1—00				
20 „ „ 30 „	1—50				
30 „ „ 40 „	2—00				
40 „ „ 50 „	3—00				

The above scale is intended to include all expenses, except in suits where the tenant disputes the landlord's claim, and witnesses have to be subpœnaed, in which case each subpœna for sums under twenty dollars must be paid for at twenty cents, and each subpœna for sums equal to or more than twenty dollars must be paid for at thirty cents. Where watchmen were kept in charge of property distrained, twenty cents per day must be paid per man.

D.

D.

In the Court of Requests in and for the Station of (as the case may be).

A B (Plaintiff)

versus

C D (Defendant).

A B, inhabitant of in the Station of maketh oath and saith, that C D, who is also an inhabitant of the town of is justly indebted to in the sum of dollars for arrears of rent of the house and premises No. situated at in the Station of due for month, to wit, from to at the rate of dollars per mensem.

Sworn before me the day of 18

Commissioner.

E.

In the Court of Requests in and for the Station of (as the case may be).

Take notice that we have appraised the goods and chattels seized on the under the provisions of the Act No. XXIX of 1866, of which a Notice and Inventory had been duly served upon you under date the , and that the said goods and chattels will be sold on the at pursuant to the provisions of the said Act.

(Signed) E F.
" G H.
Sworn Bailiffs and Appraisers.

To
A B.

Military Orphan Press.—No. 21 L. C.—12-12-66—1,000.

ACT No. XXX OF 1866.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor-General on the 24th October* 1866.)

An Act for amending the laws for collecting a Revenue of Excise on Spirituous Liquors and Intoxicating Drugs in the Settlement of Prince of Wales' Island, Singapore and Malacca.

Preamble

WHEREAS it is expedient to amend the laws for the collection of a Revenue of Excise upon Opium, Chandoo, Spirituous Liquors, Toddy and Bhang, and the granting of Excise Licenses for the sale of the said articles by retail within the Settlement of Prince of Wales' Island, Singapore and Malacca; It is enacted as follows:—

Repeal of Act XIV of 1851.

1. Act No. XIV of 1851 (*for consolidating the laws for collecting a Revenue of Excise on Spirituous Liquors and Intoxicating Drugs, in the Settlement of Prince of Wales' Island, Singapore and Malacca*) is hereby repealed, except in so far as that Act repeals any other Regulations or Acts, and except as to acts done, offences committed and liabilities incurred before the passing of this Act. Section 53 of Act No. XIII of 1856 (*for regulating the Police of the Towns of Calcutta, Madras and Bombay, and the several Stations of the Settlement of Prince of Wales' Island, Singapore and Malacca*), shall be read as if the reference therein made to the said Act No. XIV of 1851 were made to this Act.

Duties imposed.

2. All Opium, Chandoo and Opium Dross, and all Spirituous Liquors, and all Toddy and Bhang shall, except as is hereinafter provided, be liable to a duty when used or consumed in any of the Stations of the said Settlement.

Exclusive rights.

3. The exclusive right of making or preparing Chandoo or Opium Dross, and of retailing Chandoo or Opium Dross, or Opium in smaller quantities than one chest; and the exclusive right of retailing Spirituous Liquors, and of making and distilling Spirituous Liquors; and the exclusive right of selling Toddy and Bhang, within the Settlement of Prince

Prince of Wales' Island, Singapore and Malacca, shall be vested from time to time in such persons as the Local Government may license for that purpose, either by public or private sale of such exclusive rights, and on such conditions as may be proper to secure the due payment of the rents and revenues of the said farms, and to provide equitable arrangements for the transfer of the stocks of machinery and exciseable articles in the possession of any farmer, at the end of his term of exclusive privilege, to the next succeeding farmer.

Farmer's name.

4. Any person in whom the exclusive right of making or preparing Chandoo or Opium Dross, and of retailing Opium in smaller quantities than one chest shall be vested, shall be called the "*Opium Farmer* of Prince of Wales' Island," or "of Singapore," or "of Malacca," as the case may be; and the person on whom the exclusive right of retailing Spirituous Liquors, and of making and distilling and compounding Spirituous Liquors shall be vested, shall be called the "*Spirit Farmer* of Prince of Wales' Island," or "of Singapore," or "of Malacca," as the case may be; and the person in whom the exclusive right of selling Toddy and Bhang shall be vested, shall be called the "*Toddy Farmer* of Prince of Wales' Island," or "of Singapore," or "of Malacca," as the case may be.

Farmers to sign contract,

5. No person in whom such exclusive right may be vested, shall use such right until after he shall have entered into a contract in writing with the Local Government, binding himself to adhere to the terms of such contract, and to the provisions of this Act; and the several farmers shall give such security as may seem to the Local Government to be sufficient for the due fulfilment of their contracts, by deposit of money or valuable securities, or by mortgage of real or personal property or otherwise: And it shall be lawful for the Local Government to sell, dispose of and realize all such property mortgaged, pledged or deposited, without action, suit or other legal procedure for judgment or decree, in any Court of Justice, and to apply the same or the proceeds of sale thereof, or so much thereof as may be required, to liquidate any penalties, forfeitures, damages or losses which may arise or exist against the said farmers at the end of their several terms, before surrendering to them their securities, or making over to them the monies and valuable securities so deposited: Provided that no such penalties, forfeitures, damages or losses shall be chargeable against any farmer under this Act till the same shall have

and give security, &c.

Government may dispose of securities, &c.,

summarily,

and apply same to defalcations, &c.

Proviso.

have been sanctioned, in writing, by the chief Civil Authority in the said Settlement. Such contract and mortgage may be in the form of Schedule A to this Act annexed or to the like effect.

Form of contract and of mortgage.

Farm of Opium.

6. *Clause* 1.—Every person importing into any of the said Stations any Opium, shall, before landing such Opium or any part thereof, deliver or cause to be delivered to the Registrar of Imports and Exports of the Station, a Bill in form of Schedule B to this Act annexed or to the like effect, specifying the quantity and description of Opium, the name of the ship, the time of landing, and the place where the said Opium is intended to be stored: whereupon the Registrar of Imports and Exports or his Deputy shall furnish a permit, without fee, in form of Schedule C to this Act annexed or to the like effect, authorizing the Opium to be landed and stored, in terms of the Bill of specifications; and no Opium so stored shall be removed without a permit from the Registrar of Imports and Exports, who shall grant such permit on the application, in writing, in form of Schedule D to this Act annexed or to the like effect, of the owner or his agent, desiring to remove the same, and stating the place to which it is to be transferred: and before exporting any Opium from any of the said Stations, the intending exporter shall furnish to the Registrar of Imports and Exports of the Station, a Bill in form of Schedule E to this Act annexed or to the like effect, specifying the quantity and description of Opium to be exported, and the name of the ship, and the place to which the same is to be exported, whereupon the Registrar of Imports and Exports or his Deputy shall furnish, without fee, to the intending exporter, a permit in form of Schedule F to this Act annexed or to the like effect, authorizing the said Opium to be exported.

Import of Opium.

Bill of specifications

Permit by Registrar of Imports and Exports to land Opium

Permit to remove.

Export of Opium.

Permit to export.

Clause 2.—And it shall not be lawful for any person to import or bring into any of the said Stations, or to export or take out from any of the said Stations, any Opium except to or from the principal ports of such Station, and within the limits of the said several ports, as laid down under Act No. XXII of 1855 (*for the regulation of Ports and Port Dues*), or any other Act to the like effect to be hereafter passed.

Confined to principal ports.

Clause 3.

Clause 3.—Any Opium in smaller quantities than one chest, imported into any of the said Stations, shall be lodged in the office of the Registrar of Imports and Exports subject to the rules laid down in Section 11 of this Act, and shall not be taken therefrom except for exportation or sale to the Opium Farmer of the Station, as is hereinafter provided.

Opium less than one Chest.

Clause 4.—Any person offending against any of the provisions of this Section, shall be liable on conviction to a penalty not exceeding five hundred dollars; and any Opium so imported or exported, or stored or moved, or attempted to be imported or exported, or stored or moved, contrary to the provisions of this Section, with the packages and vessels in which it is contained, shall be seized and forfeited.

Penalty.

Forfeiture

7. The Opium Farmer shall be entitled to inspect and take extracts from the Registry of Imports and Exports, and the production of a copy of any extracts from the said Registry, certified under the hand and seal of the Registrar of Imports and Exports of the Station or his Deputy, shall, on the trial of any person charged with an offence under this Act, in any Court of Justice within the said Settlement, be proof of the facts set out in the said extracts, till the contrary be shown by or for the person so charged, and the omission of entries in the said book shall be proof, till the contrary is shown in like manner, that application has not been made for the permit required.

Inspection of Register.

Certified extracts of Register, evidence.

Omission of entries

8. Any Justice of the Peace at any of the said Stations, on information on oath lodged before him by the Opium Farmer of the Station or his agent, that there is reason to believe that any Opium has been imported into the said Settlement contrary to the provisions of this Act, or that any Opium imported into and stored in the Station has been removed without a permit, as hereinbefore required, from the place in which such Opium was stored, may issue his warrant in the form of Schedule G to this Act annexed or to the like effect, to enter and search any place, and if any Opium is found to have been so imported or to be missing from the place in which it was permitted to be stored, the

Search warrant for Opium.

Information.

the person in whose possession such Opium may be found or in whose name such Opium shall have been so stored, shall be liable on conviction to a penalty not exceeding five hundred dollars for every chest of Opium which shall be found to have been so imported or so removed contrary to the provisions of this Act.

Penalty.

9. Every person, other than the Opium Farmer of the Station, who shall make or prepare Chandoo or Opium Dross within the local limits of the jurisdiction of the Court of Judicature of the said Settlement, or who shall import thereinto any Chandoo or Opium Dross except as is hereinafter provided by Section 11 of this Act, or who shall therein sell or offer for sale, or permit to be sold or offered for sale, or who shall purchase, or who shall knowingly have in or receive into his possession or control, any Chandoo or Opium Dross, or Opium in less quantities than one chest, not purchased from the Opium Farmer of the then current year or a licensed Opium shop-keeper of the Station of the then current year, the onus of proof of which purchase shall rest with the person in whose possession or control the said Chandoo or Opium Dross or Opium may be found, shall be liable on conviction, for the first offence to a penalty not exceeding one hundred dollars; for the second offence a penalty not exceeding two hundred dollars; and for every subsequent offence a penalty not exceeding four hundred dollars; and all such contraband Chandoo or Opium Dross, and the vessels containing the same, shall be forfeited, and all utensils and vessels which have been used or which are plainly intended to be used in preparing Chandoo and Opium Dross shall be seized and forfeited.

Making Chandoo.

Importing Chandoo.

Selling Chandoo.

Having in possession Chandoo.

Proof.

Penalty.

Forfeiture.

10. Every person, other than the Opium Farmer of the Station, who shall sell or offer for sale, and every person who shall buy from any person other than the Opium Farmer of the then current year, or who shall knowingly receive or have in his possession contrary to the provisions of this Act any quantity of raw Opium less than one chest, shall be liable on conviction, for the first offence to a penalty not exceeding one hundred dollars; for the second offence a penalty not exceeding two hundred dollars; and for every subsequent offence a penalty not exceeding

Raw Opium, selling or buying.

Having in possession.

Penalty.

ing four hundred dollars; and all such Opium with the packages or vessels in which the same is contained, shall be seized and forfeited: Provided that nothing herein contained shall be held to prevent the sale of raw Opium for exportation under the provisions of Section 12 of this Act.

Forfeiture.

Proviso.

11. Every person arriving in any ship at any of the said Stations, who may have on board any Chandoo, or any Opium Dross, or any raw Opium in less quantity than one chest, shall, within twenty-four hours after such vessel shall have come to anchor, give notice in writing thereof to the Registrar of Imports and Exports in the form of Schedule B to this Act annexed or to the like effect, and shall apply to the said Registrar for a permit to land the said Opium or Chandoo or Opium Dross; and the said Registrar or his Deputy shall forthwith issue a permit, without fee, in form of Schedule C to this Act annexed or to the like effect; whereon the person receiving the permit shall forthwith, and before landing any of the said Opium, Chandoo or Opium Dross, furnish a copy of the said permit to the Opium Farmer of the Station; when the said Opium, Chandoo and Opium Dross shall be forthwith landed and deposited in the office of the said Registrar, where it shall remain until exported or sold to the Opium Farmer: and when it is desired to export the same, the owner or his agent shall apply, in writing, in form of Schedule E to this Act annexed or to the like effect, to the said Registrar for a permit to export; when the said Registrar or his Deputy shall issue his permit, without fee, in the form of Schedule F to this Act annexed or to the like effect, authorizing the export; and the person receiving the said permit shall forthwith, and before the removal of any of the said Opium, Chandoo or Opium Dross, furnish a copy of the said permit to the Opium Farmer of the Station, and shall at once thereafter proceed to remove the said Opium, Chandoo or Opium Dross from the said office to the ship in which it is to be exported: Provided always, that no such permit for exportation shall be granted till the person applying for the same shall have produced the port clearance for the ship in which it is intended to export the said Opium, Chandoo or Opium Dross: and provided further, that the permits for landing and for exporting such Opium, Chandoo and Opium Dross shall specify the name of the

Raw Opium or Chandoo arriving.

Notice to land.

Permit to land.

Notice to Farmer.

Deposit.

Permit to export.

Notice to Farmer.

Proviso.

Port clearance.

Specifications in permits.

the ship, the name of the owner of the Opium, Chandoo and Opium Dross, the quantity and description of the same, and the vessels or utensils containing the same, and the time of intended landing or removal from the said office; and any person committing a breach of any of the provisions of this Section shall, on conviction thereof, be liable to a penalty not exceeding two hundred dollars, and the Opium, Chandoo or Opium Dross shall be seized and forfeited.

Penalty.

Forfeiture.

12. Every person who shall be desirous of exporting or of selling for exportation raw Opium in any quantity less than one chest, shall deposit a chest containing the customary quantity in the office of the Registrar of Imports and Exports; and whenever such person shall apply for any portion of such Opium to be delivered to him or to any purchaser thereof for exportation, he shall deliver to the Registrar of Imports and Exports or his Deputy a written Bill of particulars in form of Schedule E to this Act annexed or to the like effect, expressing the quantity of Opium that is to be exported, and the name of the person who is about to export the same, and of the ship, and of the master, and of the place to which the same is to be exported, and the time of removal, and having also, in case the Opium mentioned therein is to be sold for exportation, the name of the purchaser written thereon; and the said Registrar or his Deputy shall thereupon cause the quantity of Opium specified in the Bill of particulars to be taken out of such chest and delivered to the person who is to export the same, and shall deliver to such person, without fee, a permit in form of Schedule F to this Act annexed or to the like effect: and the said Opium shall be exported in terms of the said permit, and such chest shall remain in the custody of the said Registrar or his Deputy, until all the Opium contained therein shall have been exported or sold, when the chest shall be destroyed: Provided that no such Opium shall be removed from the said office till the person desirous of exporting the same shall have furnished to the Opium Farmer of the Station a copy of the said permit, and till after the port clearance for the ship in which the same is intended to be exported shall have been produced to the said Registrar or his Deputy; and every person who shall commit a breach of any of the provisions contained in this Section, shall be liable on conviction to a penalty not exceeding one hundred dollars.

Export of Opium less than one chest.

One chest to be deposited.

Bill of particulars.

Delivery by Registrar.

Permit to export.

Chest emptied

Proviso.

Notice to Farmer.

Port clearance.

Penalty.

13. Every

13. Every person who shall receive any such permit as aforesaid for the exportation of any quantity of Opium less than one chest, and who shall not upon receiving the same, within the time named therein, cause such Opium to be conveyed to and placed on board of the vessel mentioned in such permit, shall be liable on conviction to a penalty not exceeding two hundred dollars, and the Opium and the vessels and conveyances in which it is contained shall be seized and forfeited.

Not exporting.

Penalty.

Forfeiture.

14. The foregoing provisions of this Act shall not apply to the sale of Opium for medicinal purposes by recognized Medical Practitioners, Chemists and Druggists.

Exemption.

Farm of Spirituous Liquors.

15. *Clause* 1.—Every person importing into any of the said Stations any Spirituous Liquors shall, before landing the same or any part thereof, deliver or cause to be delivered to the Registrar of Imports and Exports of the Station or his Deputy, a Bill in form of Schedule B to this Act annexed or to the like effect, specifying the quantity and description of such Spirituous Liquors, the name of the ship, and the place where the same is intended to be stored, and the time when it is intended to be landed; whereupon the Registrar of Imports and Exports or his Deputy shall furnish, without fee, a permit in the form of Schedule C annexed to this Act or to the like effect, authorizing the Spirituous Liquors to be landed and stored in terms of the Bill of specifications, which permit shall include all the particulars required in the Bill of specifications : Provided always, that if the said Spirituous Liquors or any portion thereof are intended for use or consumption in the premises of the importer, where they may be stored on importation, he shall before receiving the permit make a declaration in the form of Schedule I to this Act annexed or to the like effect, signed by him to that effect, and shall pay to the Spirit Farmer for the quantity so intended to be used or consumed the duty leviable under this Act.

Import of spirits.

Bill of specifications.

Permit to land.

Proviso.

Use on premises.

Payment of duty.

Clause 2.—When the permit for landing is received by the importer, he shall forthwith, and before landing or removing the Spirituous Liquors or any portion thereof, furnish to the Spirit

Landing spirits.

Spirit Farmer of the Station a copy of the said permit, and the Spirituous Liquors shall be landed and stored in terms of the landing permit: any person offending against any of the provisions of this Section shall be liable on conviction to a penalty not exceeding five hundred dollars, and the Spirituous Liquors shall be seized and forfeited.

Notice to Farmer.

Penalty.

16. Whenever any ship shall arrive at any of the said Stations, having on board Spirituous Liquors not entered on the ship's manifest and not forming part of the ship's stores or provisions placed on board by the owner, charterer or other person, for the use of the officers, passengers and crew of such ship, the master, supercargo or other person having charge or control over such Spirituous Liquors shall, within twenty-four hours after the arrival of any such ship, cause the said Spirituous Liquors to be landed and stored in the office of the Registrar of Imports and Exports, in the manner provided by Section 15 of this Act for the landing of Spirituous Liquors, and such Spirituous Liquors shall remain in the said office till the departure of the said ship, when they shall be exported in manner provided by Section 18 of this Act: Provided however that such Spirituous Liquors or any portion thereof may be sold or removed from the said office, subject to the provisions of this Act for the removal, sale and export of Spirituous Liquors and for the payment of duty thereon; any person convicted of an offence contrary to the provisions of this Section shall be liable to a penalty not exceeding two hundred dollars, and such Spirituous Liquors shall be seized and forfeited.

Spirits on board ships

to be landed.

Exporting

Proviso for sale

Penalty.

Forfeiture.

17. Every importer desirous of removing any Spirituous Liquors from the place where they shall have been stored on importation, shall apply in writing, in form of Schedule K to this Act annexed or to the like effect, to the Spirit Farmer of the Station, stating the quantity and description of the Spirituous Liquors, the time of removal, the place to which they are to be removed, and the person or persons into whose premises they are to pass, and except when the Spirituous Liquors are to be removed for exportation as is next hereinafter provided, shall pay or cause to be paid to the said Spirit Farmer the sum of fifty cents of a dollar for every

Removal of spirits from place of import storing.

Application to Farmer

Payment of duty.

every gallon of such Spirituous Liquors, and if in bottles the sum of fifty cents of a dollar for every four quart bottles or eight pint bottles, and a proportionate sum for any lesser quantity; whereupon the said Spirit Farmer, if the application is made between the hours of six in the morning and six in the evening, shall deliver to such person, without fee, a written permit to remove the same in the form of Schedule L to this Act annexed or to the like effect.

Permit for removal.

18. Whenever it is intended to export any Spirituous Liquors from any of the said Stations, the intending exporter shall furnish to the Registrar of Imports and Exports of the Station or his Deputy, a Bill in the form of Schedule E to this Act annexed or to the like effect, specifying the quantity and description of the Spirituous Liquors, the owner's name, the name of the ship and of the place to which they are to be exported, and the time of removal; whereupon the Registrar of Imports and Exports or his Deputy shall furnish a permit, without fee, in the form of Schedule F to this Act annexed or to the like effect, containing the particulars above required, authorizing the said Spirituous Liquors to be exported by the said applicant, who shall forthwith and before removing the said Spirituous Liquors supply to the Spirit Farmer of the Station a copy of the said permit. Provided always, that if the quantity of Spirituous Liquors to be exported do not exceed three dozen quart bottles or six dozen pint bottles, it shall not be necessary to apply to the Registrar of Imports and Exports for his permit; but application as hereinbefore provided shall be made to the Spirit Farmer, who in such case shall grant his permit in the form above described without payment of duty for the removal of the said Spirituous Liquors to the ship in which they are to be exported. Provided further, that the Spirit Farmer shall not be required to grant such permit for exportation till the port clearance of the ship in which the Spirituous Liquors are to be exported shall be produced to him; and provided further, that in the event of any person being desirous of exporting Spirituous Liquors on which the farmer's duty has already been paid, on proof of such payment by the person applying, the Spirit Farmer shall refund to the exporter the amount of duty which may have been paid on the quantity of Spirituous Liquors

Export of spirits.

Bill of specifications.

Permit to export.

Notice to Farmer.

Farmer's permit for three dozen.

Proviso.

Port clearance.

Proviso.

Duty already paid.

Proof.

Refund.

Liquors so to be exported, and shall issue his permit for the exportation thereof and any person to whom such refund shall have been made neglecting or omitting to cause the said Spirituous Liquors to be exported in terms of the said permit, shall be liable on conviction to a penalty not exceeding five hundred dollars, and the said Spirituous Liquors shall be seized and forfeited.

Not exporting.

Penalty.

Forfeiture.

19. Every person except as hereinbefore provided in Section 17 of this Act, desirous of removing Spirituous Liquors from one place to another, or from the possession of one person to that of another person, shall apply in writing in the form of Schedule M to this Act annexed or to the like effect, to the Spirit Farmer of the Station, stating the quantity and description of Spirituous Liquors, the place to and from which they are to be removed, and the person from and to whose possession they are to be removed, and the time of removal; whereupon the said Spirit Farmer shall grant his permit in the form of Schedule N to this Act annexed or to the like effect, without payment of any fee, for the removal: Provided the duty leviable on the said Spirituous Liquors shall have been already paid to the Spirit Farmer of the then current year; the onus of proof of which payment shall rest with the person applying for the permit.

Subsequent removal of spirits.

Application to Farmer.

Farmer's permit.

Proviso for duty.

Proof of payment.

20. Any person convicted of having landed or exported or removed any Spirituous Liquors contrary to the provisions of this Act, shall be liable on conviction to a penalty of one hundred dollars for the first offence; to two hundred dollars for the second offence; and four hundred dollars for the third and every subsequent offence; and the Spirituous Liquors and the vessels in which they are contained shall be seized and forfeited.

Illicit landing, or exporting, or removing spirits.

Penalty.

Forfeiture.

21. If the Spirit Farmer shall refuse on application as hereinbefore provided to grant his permit for the exportation or removal of any Spirituous Liquors, the person requiring such permit may apply in writing to any Justice of the Peace, furnishing him with a copy of the application made to the Spirit

Farmer refusing permit.

Application to Justice of the Peace.

Spirit Farmer, and such Justice of the Peace, on security being given to his satisfaction for the amount of duty leviable under the provisions of this Act on the quantity of Spirituous Liquors intended to be removed, shall issue his order in the form of Schedule O to this Act annexed or to the like effect, under his hand and seal, authorizing the removal of the Spirituous Liquors, and for which order a fee of one dollar shall be paid by the applicant, and if the said Farmer shall thereafter be convicted of an offence under the next succeeding Section of this Act, such fee shall be refunded by the said Farmer.

Security for duty.

Order of Justice of the Peace.

Fee for order.

22. The Spirit Farmers at each of the said Stations shall grant their receipt in the form of Schedule P to this Act annexed or to the like effect, for every sum of money received by them as duty under the provisions of this Act, and any Spirit Farmer refusing, without good cause shown, to grant his permit for the exportation or removal of Spirituous Liquors under the provisions of this Act, or refusing to grant his receipt as above required, shall be liable on conviction to a penalty not exceeding one hundred dollars.

Receipts by Farmers.

Refusing permit.

Penalty.

23. Any Justice of the Peace at any of the said Stations, on information lodged before him on oath by the Spirit Farmer of the Station or his agent, that he has reason to believe that Spirituous Liquors imported into the Station have been removed from the place where the same may have been stored on importation under the provisions of this Act, without payment of duty to the said Spirit Farmer, may issue his warrant in the form of Schedule G to this Act annexed or to the like effect, authorizing the said Spirit Farmer or his agent to enter the place in which such Spirituous Liquors are or shall have been stored and examine the same, and, if it appear that there is any deficiency in the quantity which ought, according to the landing permit of the Registrar of Imports and Exports and the permits granted for the exportation and for the removal of Spirituous Liquors, to be found stored in such place, the person or persons in whose name the landing permit was issued by the Registrar of Imports and Exports or his Deputy may be summoned before any Justice of the Peace of the said Station

Search warrant.

Information on oath

Warrant to examine stores

Deficiency.

Summons.

Station, and, on proof to his satisfaction that there is a deficiency in the quantity of Spirituous Liquors, such person shall be liable to a penalty not exceeding five hundred dollars, and shall pay to the said Spirit Farmer the duty leviable under the provisions of this Act on the deficiency: Provided always, that such person shall not be held liable for any deficiency arising from leakage or breakage: and provided further, that the Spirit Farmer or his agent in serving such warrant shall be accompanied by a Police Officer of the rank of Inspector at least.

Penalty.

Duty.

Proviso for leakage, &c.

Proviso.

Service of warrant.

24. From the passing of this Act, whoever being a manufacturer of sugar or whoever being in charge of a place for the manufacture of sugar in the said Settlement, shall be desirous of having a distillery at his sugar manufactory for making or distilling, or rectifying or compounding Spirituous Liquors, shall apply in writing to the Commissioner of Police of the Station within which such sugar manufactory is situated for a license; and in such application shall be inserted the name of the applicant, the situation of his manufactory, and the number and size of the stills he is desirous of keeping; and the Commissioner of Police shall grant such license renewable every year under his hand and seal to the applicant, on payment of a fee of ten dollars: and such license shall be registered in the Police Office of such Station or place.

Sugar distilleries.

License.

Fee.

Registry.

25. No licensed distiller shall be at liberty to sell to any person other than the Spirit Farmer of the Station, or to sell, send out of or deliver from his distillery for exportation, any Spirituous Liquors in a less quantity than one hundred and sixty imperial gallons, or, if in bottles, in a less quantity than fifty dozen of quart bottles or one hundred dozen of pint bottles; and every licensed distiller who shall sell, send out or deliver, or permit to be sold, sent out or delivered from his distillery, any Spirituous Liquors (except as aforesaid) shall on conviction for every such offence be liable to a penalty not exceeding one hundred dollars, and such Spirituous Liquors and the vessels in which the same are contained shall be seized and forfeited.

Distiller selling, &c.

Selling, &c., for exportation.

160 gallons.

Penalty.

Forfeiture.

26. Every

26. Every person, other than the Spirit Farmer or a licensed distiller, who shall make or distil, or rectify or compound any Spirituous Liquors, or shall knowingly keep or have in his possession any still or other utensil or apparatus, or part of such still, utensil or apparatus, for distilling or making, or rectifying or compounding Spirituous Liquors, shall on conviction for every such offence be liable to a penalty not exceeding one hundred dollars: and all such Spirituous Liquors, and every such still or other utensil or apparatus, or portion of such still, utensil or apparatus, shall be seized and forfeited, but nothing contained in this or any other Section of this Act shall be construed to extend to distillations for medicinal or scientific purposes.

Illicit distillation.

Having still in possession.

Distilling.

Penalty.

Forfeiture.

Exemption.

27. Every person, other than the Spirit Farmer or persons duly licensed under the provisions of this Act for the sale of Spirituous Liquors, who, within the said Settlement, shall sell or purchase except for exportation any Spirituous Liquors on which the duty leviable under this Act shall not have been paid to the Spirit Farmer, and every person as aforesaid who shall knowingly have in his possession, custody or control, any Spirituous Liquors sold or purchased without such payment of duty, shall be liable on conviction to a penalty not exceeding one hundred dollars for the first offence; and two hundred dollars for the second offence; and four hundred dollars for the third and every subsequent offence, and the Spirituous Liquors with the vessels in which they are contained shall be forfeited: Provided that it shall be incumbent on the person in whose possession any Spirituous Liquor shall be found to show that the duty leviable under this Act has been paid to the Spirit Farmer.

Dealing in spirits illicitly.

Having in possession.

Penalty.

Forfeiture.

Proviso onus of proof.

28. All Spirituous Liquors imported, landed, removed in or exported from any part of the said Settlement on account of Her Majesty's Government, are exempt from the operation of this Act.

Exemption for Government.

Farm of Toddy and Bhang.

29. Every owner, renter or occupier of lands within the said Settlement, producing Toddy and Bhang, shall cause the said lands to be registered at the office of the Collector of land revenue

Registry of Toddy and Bhang lands.

enue of the Station, and shall furnish to the said Collector a statement, in writing, describing the locality of the said lands, and containing full particulars as to the number of trees used for producing Toddy, and the extent of ground cultivated with Bhang, and from time to time as alterations take place in the numbers of such trees, and in the extent of ground so cultivated with Bhang, shall report such alteration to the said Collector, who shall cause the said particulars to be entered in a book to be kept for that purpose in his office, which book shall at all reasonable times be open to the Toddy Farmer or his agent, without fee in that behalf: and any person convicted of an offence against the provisions of this Section shall be liable to a penalty of one hundred dollars: Provided further that, on the trial of any person charged under this Section, the production of an extract from the said book of registry, signed by the said Collector of land revenue or his Deputy, shall be proof of the facts stated in the said extract till the contrary be shown by the person charged, and the omission of full and correct entries relating to the lands as to which the charge is made shall be proof against the owner, renter or occupier, that such lands have not been so registered.

Particulars.

Registry book.

Inspection of book.

Penalty.

Proviso for proof.

30. Any Justice of the Peace on the information on oath of the Toddy Farmer of the Station or his agent, that there is good reason to believe that Toddy or Bhang is produced on lands in the said Settlement not duly registered under Section 29 of this Act, may issue his warrant in the form of Schedule G to this Act annexed or to the like effect, authorizing the Toddy Farmer or his agent, accompanied in either case by a Police Officer, to enter in and examine such lands, and the Toddy Farmer may apply to any Justice of the Peace for a summons against the owner, occupier or other person in charge of such lands, if not registered, or the person in whose name such lands are registered, to appear at the Police Court at the Station to answer any charge under Section 29 of this Act, and any person so summoned to appear, on being convicted of an offence against Section 29 of this Act, shall be liable to punishment as is provided by the said Section: Provided that such Justice of the Peace may issue his warrant, either before or after the issue of such summons, to compel the appearance of any person charged on the information on

Search warrant

to examine lands.

Summons.

Penalty.

Proviso.

on oath of such Toddy Farmer or his agent, with having committed an offence against Section 29 of this Act.

Import of Toddy and Bhang.

31. No person, other than the Toddy Farmer of the Station, shall import or export any Toddy or Bhang into or from the said Station, except in the case of imports for sale to the Toddy Farmer of the Station: and any Toddy or Bhang imported into any of the Stations shall be at once taken to the principal shop of the Toddy Farmer at the Station and there sold or delivered to such Toddy Farmer at such price as may be fixed from time to time by the Local Government: Provided always, that if the Toddy Farmer shall refuse to purchase any Toddy or Bhang so imported, the importer shall forthwith export the same: Any person committing a breach of the provisions of this Section shall be liable on conviction to a penalty not exceeding one hundred dollars, and the Toddy or Bhang found with such person shall be seized and forfeited.

Price.

Proviso.

Export again.

Penalty.

Forfeiture.

Dealing in Toddy or Bhang.

32. Every person within the said Settlement who shall sell or offer for sale, except to the Toddy Farmer of the Station, and every person as aforesaid who shall purchase from any person other than the Toddy Farmer of the Station of the then current year, or from a licensed Toddy Shop-keeper of the then current year, or who shall knowingly have in his possession any Toddy or Bhang, not purchased by him from such Toddy Farmer or registered Toddy Shop-keeper, the burthen of proof of which purchase shall rest on the person charged, shall be liable on conviction to a penalty not exceeding one hundred dollars, and all such Toddy or Bhang shall be seized and forfeited.

Having in possession.

Burthen of proof.

Penalty.

Forfeiture.

Places of Public Entertainment where Spirituous Liquors are sold to be used on the Premises.

Hotels, &c., to be registered.

33. All Hotels, Inns, Taverns, Eating-Houses, Punch-Houses and other houses of public entertainment in any of the Stations of the said Settlement, in which it is desired to sell Spirituous Liquors, and which are already licensed under any Act of the Legislative Council of India for regulating such places, shall be registered in a book to be kept for that purpose by the Commissioner of Police of the Station, yearly, in the last ten days of the month of

of April or at such other time as may be directed by the Local Government: and such Commissioner of Police shall grant a license in the form of Schedule H to this Act annexed or to the like effect, to the person desirous of opening or keeping such place of public entertainment, authorizing such person to sell by retail Spirituous Liquors under the provisions of this Act, so that the same be used or consumed in the licensed houses in which they may be purchased; and the said licensed houses may be classed by the Commissioner of Police, with the sanction of the Local Government, in three classes according to the importance of the establishment and the quantity of Spirituous Liquors likely to be consumed therein, and for such licenses a fee shall be paid, yearly, as follows: that is to say,—

License to sell for consumption on premises.

Three classes.

Fees.

For a 1st Class House			...	...	Dollars	100
,,	2nd	,,	...	...	,,	75
,,	3rd	,,	...	...	,,	50

and any person, after the thirtieth day of April in each year or such other time as may be fixed by the Local Government for the determination of the Spirit Farmer's privileges, selling Spirituous Liquors in such houses without having first obtained a license for the year, as required by this Section; and any person selling or buying Spirituous Liquors in such houses, and taking the same away from such houses or allowing the same to be so taken away, shall be liable on conviction to a penalty not exceeding fifty dollars, and the said Spirituous Liquors shall be seized and forfeited.

Penalty. Forfeiture.

Licensed Shops for sale of Exciseable Articles.

34. All houses or shops for the retail sale of Opium, Chandoo, Spirituous Liquors, Toddy and Bhang, shall be registered in a book to be kept for that purpose by the Commissioner of Police at each of the said Stations, who shall, subject to the sanction of the Local Government, grant to the applicant a license under his hand and seal in form of Schedule Q to this Act annexed or to the like effect, for each shop so to be used, in such numbers and in such situations as he shall, with the sanction of the Local Government

Licensed shops to be registered.

Licenses.

Numbers and situations.

ernment, determine: and before granting any such license, the Commissioner of Police or his Deputy shall cause to be read over and explained to the applicant the rules and regulations next hereinafter provided for, and the said applicant shall sign his name or make his mark in the presence of the said Commissioner or his Deputy, in the book in which the said rules and regulations are inscribed, in acknowledgment that the said rules and regulations have been read over and explained to him: and a printed copy of such rules and regulations shall be posted in a conspicuous place in every such licensed shop: and any person opening or keeping a house or shop for such purpose without such license, or committing a breach of such rules and regulations, shall be liable on conviction to a penalty not exceeding one hundred dollars.

Acknowledgment of Keeper

in book of rules

Copy of Rules

Penalty

35. The Commissioner of Police at each of the said Stations shall from time to time, with the sanction of the Local Government, draw up and publish rules for the better management of such houses or shops and maintaining order therein, the times for opening and shutting the shops, and the signboards or other distinctive marks to be affixed to such houses or shops; and it shall be lawful at all times for the Commissioners of Police, their Deputies, and all superior Officers of Police to be named by the Commissioners in the rules to be published by them, to enter without warrant any of the said licensed houses or shops purporting to be so licensed, and to arrest and take into custody without warrant any persons found in such houses armed, or making a disturbance, or gambling or committing any breach of the peace: and any person so found armed, or making a disturbance, or gambling or committing a breach of the peace, shall on conviction be liable to a penalty not exceeding fifty dollars. A fee of ten dollars shall be charged for every such license, to be paid by the person applying therefor, together with such reasonable sum as may be sufficient to cover the cost of the signboard or other distinctive mark to be supplied to the said shop-keepers by the Commissioner of Police as aforesaid; such charge to be fixed by the Commissioners of Police with the sanction of the Local Government.

Rules to be framed

Particulars.

Police visits.

Arrest of

Armed persons, Disturbers, Gamblers, Breakers of the Peace.

Penalty.

Fee for license.

Cost of signboards

36. The

36. The Commissioner of Police at each of the said Stations, with the sanction of the Local Government, may cancel the license of any person licensed to keep a shop under the provisions of this Act.

Cancelment of license.

37. Any keeper of a licensed shop under this Act, knowingly permitting gambling to be carried on in his shop, or knowingly permitting armed persons to be in his shop, shall be liable on conviction to a penalty not exceeding one hundred dollars.

Gambling.

Armed persons.

Penalty.

38. Every keeper of an Opium shop, Spirit shop, or Toddy shop, licensed under Section 34 of this Act, who shall sell or knowingly have in his possession any Opium, Chandoo, Spirituous Liquors, Toddy or Bhang, which shall not have been purchased from the respective Farmers of the Station, proof of which purchase shall rest with the person charged, shall be liable on conviction to a penalty not exceeding one hundred dollars, and the Opium, Chandoo, Spirituous Liquors, Toddy or Bhang shall be forfeited.

Exciseable articles not purchased from Farmers.

Proof.

Penalty.

Forfeiture.

39. Every Farmer under this Act, and every keeper of any house or shop registered under this Act, who shall sell or exchange Opium, or Chandoo, or Opium Dross, Spirituous Liquors, Toddy or Bhang, otherwise than for the coin usually current within the said Settlement, shall forfeit a penalty not exceeding twenty-five dollars.

Selling, except for coin.

Penalty.

40. Every person within the said Settlement, who shall deliver to any servant or labourer any Opium, Chandoo, Opium Dross, Spirituous Liquors, Toddy or Bhang in consideration of wages or hire due to such servant or labourer, shall forfeit a penalty not exceeding fifty dollars.

Exchange for servants' wages.

Penalty.

41. Any Farmer or person licensed under this Act, who shall knowingly sell or deliver to any European or Native soldier any Opium, Chandoo, or Opium Dross, Spirituous Liquors, or Toddy or Bhang, without having an authority in writing from the Commanding Officer of such soldier, shall be liable on conviction to a penalty not exceeding fifty dollars.

Sale to soldiers.

Penalty.

42. Any

Adulterated Spirits or Toddy.

Penalty.

Destruction of articles.

42. Any person in the said Settlement selling or offering for sale Spirituous Liquors or Toddy adulterated or compounded in such a manner as to be injurious to health, shall be liable to a penalty not exceeding one hundred dollars, and all such injurious articles shall be destroyed.

Compounding for offences.

43. Any Farmer under this Act who shall, either by himself or by the means of any other person, take from any person who may have committed or be suspected of having committed a breach of any of the provisions of this Act, any sum of money or any goods or chattels, or other consideration whatsoever, as a compromise, reward or payment for not prosecuting such person for such offence, shall be liable on conviction to a penalty not exceeding two hundred dollars.

Penalty.

Sale by outgoing Farmers near end of term.

44. No Farmer or keeper of a licensed shop for the sale of exciseable articles under this Act, shall sell any exciseable articles near the end of the term of the exclusive privilege of the Farmer, or at any time during such exclusive privilege, so as in either case to authorize the use by the purchaser of such exciseable articles at any time after twelve o'clock at noon of the second day of May of each year, or thirty-six hours after such other time as may be fixed for the termination of the exclusive privilege of the Farmer: and any person found with any exciseable articles in his possession which have not been purchased from the Farmer of the term in which the time of seizure of such articles shall happen to be, except for thirty-six hours after expiry of such term as aforesaid, shall be liable to all penalties and forfeitures to which a person may be liable under this Act, if such articles had not been purchased from a Farmer or licensed shop-keeper.

Articles found sold contrary to this Section.

Penalties and forfeitures.

License and Permit Fees.

Fees for licenses to Farmers.

45. All fees received for registering licenses to keep Opium shops under this Act, shall be paid to the Opium Farmer for the time being; and all fees received for registering licenses to keep Spirit shops and distilleries and houses of entertainment registered under this Act for the sale of Spirituous Liquors, and all fees for permits to remove Spirituous Liquors under this Act, shall be paid to the Spirit Farmer for the time

time being; and all fees received for registering licenses to keep Toddy shops for the sale of Toddy and Bhang under this Act, shall be paid to the Toddy Farmer for the time being: and all fines and penalties whatsoever received under this Act shall, after the adjudication at the discretion of the Justices of the Peace or Magistrate of a portion of such fines and penalties to the informer, be paid into the municipal fund, established under Act No. XXVII of 1856 *(for appointing Municipal Commissioners, and for levying rates and taxes, in the several Stations of the Settlement of Prince of Wales' Island, Singapore and Malacca)*, or that may be established by any future Act, of the Station at which such fines and penalties shall be imposed, to be applied to the general purposes of the said Act: and all articles subject to restriction under this Act, seized and forfeited, when the same shall not be ordered to be destroyed as unwholesome, shall be given to the Farmer prosecuting the case.

Fines and penalties

Informer's share Municipal Fund

Forfeitures for Farmers

Revenue Officers.

46. The Commissioner of Police at each of the Stations in the said Settlement may grant his warrant in form of Schedule R to this Act annexed or to the like effect, to such agents or servants of the several Farmers named in this Act as may be approved of by the said Commissioner of Police, with the sanction of the Local Government, to act as Revenue Officers at the Station in which they may be appointed: and no persons except those so appointed, and except the members of the Police Force enrolled under the provisions of Act No. XIII of 1856 *(for regulating the Police of the towns of Calcutta, Madras and Bombay, and the several Stations of the Settlement of Prince of Wales' Island, Singapore and Malacca)*, or any Act to be hereafter passed to the same effect, shall be competent to act as Revenue Officers under this Act: and such warrants may at all times be withdrawn by the Commissioner of Police, with the sanction of the Local Government, and any person other than a Police Officer assuming to act as a Revenue Officer under this Act, and not holding such warrant, shall be liable on conviction to a penalty not exceeding fifty dollars. The names and places of residence of every Revenue Officer so appointed shall be posted in a conspicuous place at the Police Courts of the Station.

Warrants to act to approved persons.

Acting without warrant

Police Officers

Withdrawing of warrant

Penalty

Names to be posted.

47. Every

47. Every Revenue Officer appointed under this Act shall be supplied, at the expense of the Farmer requiring his appointment, with a brass plate or staff bearing such sign or mark of office as may be directed by the Commissioner of Police, with the sanction of the Local Government: and before acting against any person under the provisions of this Act, every such Revenue Officer shall declare his office and produce to the person against whom he is about to act his said sign or mark of office. Every Police Officer acting under the provisions of this Act, if not in the uniform proper to his service, shall, in like manner, declare his office and produce to the person against whom he is about to act such part of his public equipment as the Commissioner of Police shall have directed or may direct to be carried by Police Officers when employed in secret or special service: and any person who shall, after production of such sign or mark or equipment of office, obstruct any such Police or Revenue Officer in the exercise of his duties under this Act, shall be liable on conviction to a penalty not exceeding fifty dollars.

Badges for Revenue Officers.

Rules for acting.

Revenue Officers.

Police Officers.

Obstructing Officers.

Penalty.

48. Any person who as aforesaid shall assault or beat any such Police or Revenue Officer, while so as aforesaid in the execution of his duty under the provisions of this Act, shall be liable on conviction to a penalty not exceeding one hundred dollars: and it shall be lawful for such Officers so resisted to oppose force to force and to execute their office or duty.

Assaulting Officers.

Penalty.

Opposing force to force.

49. Every Police or Revenue Officer who shall extort or attempt to extort, or take from any person, any money or valuable consideration as a bribe under pretence of this Act; and every person who shall offer to any Police or Revenue Officer any such bribe; and every Police or Revenue Officer who shall maliciously and without reasonable grounds arrest or detain any person under the provisions of this Act, or who shall not with the least practicable delay take any person so arrested before some Justice of the Peace for examination, shall be liable on conviction to a penalty not exceeding fifty dollars.

Extortion.

Bribery.

Malicious charges.

Delay in going before Justice of the Peace.

Penalty.

Procedure.

Procedure.

50. Any Justice of the Peace within the said Settlement may, by his warrant in the form of Schedule S to this Act annexed or to the like effect, directed to any Police Officer within the said Settlement or to any Revenue Officer or Officers appointed in manner hereinbefore mentioned, empower him by day or by night (but if between the hours of six o'clock in the night and six in the following morning, then such warrant to be executed by or in the presence of a Peace Officer), to enter and search any dwelling-house, shop or other building or place, or any ship lying or being within the local limits of the jurisdiction of the Court of Judicature, in any case in which there shall appear to such Justice of the Peace, upon the oath of any person, good and sufficient cause to believe that, in any such dwelling-house, shop or other building, or other place, or on board any ship lying or being within the local limits of the jurisdiction of the said Court, is concealed or deposited any article subject to forfeiture under this Act, and to take possession of any such article found to be concealed or deposited therein, and of all utensils used for preparing Chandoo or plainly intended for such use, and all stills or other apparatus used for distilling Spirituous Liquors, or portions of stills or apparatus plainly intended for such use, and to arrest and take any person or persons being in such dwelling-house, shop or building, or other place, or on board any ship lying or being within the local limits aforesaid, in whose possession, custody or control any such article may be found, or whom the said Officer or Officers may have good and sufficient reason to suspect to have concealed or deposited therein any such article, and any Officer to whom such warrant shall be directed may, in any case of resistance, break open any outer or inner doors of such dwelling-house, shop or other building, or other place, and enter thereinto, and forcibly enter any ship lying or being within the local limits aforesaid, and remove by force any obstruction to such entry, search, seizure and removal as aforesaid: Provided always, that all informations to be laid, and all warrants to be issued, and all arrests and seizures to be made under this Act, may be had or done on a Sunday as well as on any other day.

Search warrants.

To Police Officer.

To Revenue Officer.

By day-light.

On land.

At sea.

Information.

Contraband articles.

Utensils.

Arrest on suspicion.

Break open doors.

Entry on ship.

Seizure.

51. If

51. If any person shall be found committing any act in breach of this Act, or if any Peace or Revenue Officer shall have probable cause to believe that any person has concealed upon his person any article subject to forfeiture under this Act, such Peace or Revenue Officer may immediately arrest such person without a warrant, and shall thereupon immediately take such person before some neighbouring Justice of the Peace, who shall determine if there be reasonable grounds of suspicion, and such Justice of the Peace may direct such person to be immediately searched, and such Justice of the Peace, if he sees grounds for believing that an offence has been committed against the provisions of this Act, shall thereon admit the person so charged to bail on his recognizance in form of Schedule T to this Act annexed, or to the like effect, with such securities as to the said Justice of the Peace shall seem sufficient, to appear before him or some other Justice of the Peace or Magistrate of Police, at a Police Court at the Station, to answer the charge, and if the person so charged shall not give such security for his appearance, such Justice of the Peace shall issue his order in writing in the form of Schedule V to this Act annexed or to the like effect, directing the person so charged before him to be taken to the principal Police lock-up at the Station with any articles subject to forfeiture under this Act, found or said to have been found with such person, and there to be kept till bail be given to the satisfaction of the same or any other Justice of the Peace, for the appearance of such person to stand his tria for the offence charged at a Police Court in the Station, and in the default of such bail to be kept in the said lock-up till the trial of the offence: Provided that no person so kept for want of bail shall be detained for any period exceeding two days: and if any person who shall have entered into recognizance to appear as above, shall not appear as required, the Justice of the Peace or Magistrate before whom he was to have appeared shall, on application, certify such non-appearance on the back of such recognizance, whereupon the sum thereby acknowledged to be due shall be recoverable in the manner provided by this Act for levying penalties.

Offences off view.

Concealment on person.

Arrest.

Search by Justice of the Peace.

Bail.

Commitment in default of bail.

Detention.

Proviso, time of detention.

Default of appearance.

Summary procedure.

52. It

52. It shall be lawful for any Justice of the Peace or Magistrate before whom a charge shall be laid against any person for a breach of any of the provisions of this Act, on being satisfied that a summons has been duly served on the person charged to appear to answer the charge, or in case the person charged shall have been admitted to bail to appear, and in either case such person shall not appear according to the exigence of the summons or bail-bond, and no sufficient cause shall be shown for such non-appearance, to proceed to the hearing of the charge as if such person charged were present.

Proceeding *ex parte.*

53. It shall be lawful for the Local Government to direct the suspension and withdrawal of any charge or proceedings before any Justice of the Peace or Magistrate under this Act, and to cancel and annul and reverse in whole or in part any order, charge, conviction or other proceeding under this Act, and to direct the refund of the whole or any part of any fine or penalty, and the restoration of the whole or any portion of any articles ordered to be forfeited to any person from whom the same may have been taken, and to remit the whole or any part of any sentence of imprisonment passed under this Act.

Remission of sentences.

54. All penalties under this Act may be imposed on conviction of the offender, by confession of the offender or by the oath of one or more witnesses before two Justices of the Peace or a Magistrate of Police, at a Police Court in the Station: and in case of non-payment of any penalty imposed or forfeited under this Act, the convicting Justices or Magistrate may issue their warrant of distress in the form of Schedule W to this Act annexed or to the like effect, under their hands and seals, directed to any Peace Officer to levy the amount of such penalty by seizure and sale of any goods of the offender which may be found within the jurisdiction of such Justices or Magistrate: and if no such property shall be found within such jurisdiction, then the aforesaid Justices or Magistrate, by warrant under their hands and seals in the form of Schedule X to this Act annexed or to the like effect, may commit the offender to prison, with or without hard labour, for any period not exceeding two calendar months where a pecuniary penalty of twenty-five dollars shall be imposed, and in the same proportion for any greater penalty which shall be imposed: Provided always, that in case it shall appear to

Convictions.

Warrant of distress.

Commitment in default of distress.

Form of warrant of commitment.

Periods of imprisonment.

to such Justices of the Peace or Magistrate, by the confession of the offender or in any other manner, that he has no goods whereon to levy such distress, then and in every such case it shall be lawful for such Justices of the Peace or Magistrate, if they shall deem it fit, instead of issuing such warrant of distress, by warrant under their hands and seals in the form of Schedule Y to this Act annexed or to the like effect, to commit the offender to prison, with or without hard labour, for any period not exceeding two calendar months where a pecuniary penalty of twenty-five dollars shall be imposed, and in the same proportion for any greater penalty which shall be imposed: Provided always, that in no case shall the term of imprisonment exceed two years.

Commitment without distress.

Warrant of commitment.

Commutation of penalties.

55. All convictions under this Act may be in the form of Schedule Z to this Act annexed or to the like effect, and no conviction or order shall be quashed or set aside for want of form or otherwise, and no warrant of commitment shall be held void by reason of any defect therein: Provided it be alleged therein that the party charged has been convicted of the offence and to the punishment set out in the warrant of commitment: Provided there be a conviction as aforesaid to that effect, and no conviction or order under this Act shall be removed by *certiorari* or otherwise, into the Court of Judicature, except as next hereinafter mentioned.

Form of conviction.

Not to be quashed for formal defects, &c.

Certiorari.

56. If any person shall feel himself aggrieved by any adjudication made by such Justices of the Peace or Magistrate of Police, such person shall, within one week from the day of the said adjudication, give notice in the form of Schedule AA to this Act annexed or to the like effect, to the Justices of the Peace or Magistrate who shall have adjudicated, and to the opposite party, of his intention to appeal, stating in such notice the grounds of appeal; whereupon the said Justices of the Peace or Magistrate shall cause a transcript of the proceedings, including the charge, the evidence, and the adjudication, conviction or order, to be drawn up in the form of Schedule BB to this Act annexed or to the like effect, and as soon as reasonably convenient to be transmitted, certified under their hands and seals, to the Court of Judicature at the Station: Provided always, that no such proceedings in appeal shall be allowed till the person desiring

Appeal.

Week's notice.

Grounds of appeal.

Transcript to be sent to Court of Judicature.

ing to appeal shall have lodged a sum sufficient to cover the costs of preparing the transcript, not exceeding the sum of six cents per folio of ninety words contained in the said transcript, and shall have given security to the satisfaction of the said Justices of the Peace or Magistrate, in any sum not exceeding two hundred dollars, to answer for the costs of the said appeal, to be taxed by the proper Officer of the said Court of Judicature, and further security for the due payment of any penalty adjudicated or to be adjudicated in appeal against the person desiring to appeal: and provided further, that if any person desiring to appeal shall have been sentenced to imprisonment with or without hard labour, it shall be lawful for the said Justices of the Peace or Magistrate to have brought before them in custody such person by their order in form of Schedule CC to this Act annexed or to the like effect, under their hands and seals addressed to the Sheriff of the said Settlement, or to the Keeper of the Jail or House of Correction, or other place in which such person may be confined, who shall thereupon produce or cause to be brought before the said Justices of the Peace or Magistrate of Police the person required by the said order to be produced before them, and they shall admit such person to bail on good and sufficient security being given to their satisfaction for the surrender of such person after the hearing of the appeal to undergo his said sentence, or to pay his penalty and costs, or to be discharged: and if any person so bound over to appear shall not thereafter in pursuance of the terms of the bail-bond so appear and undergo the sentence or pay the penalty and costs required, such recognizance may be forfeited by any Justices of the Peace or Magistrate of Police sitting at the said Court, and on such non-appearance being certified on the back of the said bail-bond, the amount thereof shall be levied on the goods and effects of the defaulter and his sureties in the manner provided by this Act for the levy of fines and penalties, and such security for costs or for the payment of any penalty shall be in the form of Schedule DD to this Act annexed or to the like effect.

Deposit for costs of transcript.

Security for costs.

Security for judgment.

Respite of sentence.

Order to bring up persons in prison.

Bail.

Default of appearance.

Summary procedure.

Form of security.

57. On the transmission of the said transcript, the said appeal shall be entered on the list of cases for trial on the civil side of the said Court, and shall be disposed of with the other business before

Appeal to be entered on list.

before the said Court, subject to such rules as to time and order of hearing as may from time to time be made by the Judges of the said Court. The Judges of the said Court shall give judgment in the said appeal after hearing the parties or their advocates or law agents, and may affirm or reverse or alter the adjudication of the said Justices of the Peace or Magistrate, with or without costs to be paid as shall be ordered by the said Judges, as justice may seem to require: Provided always, that the said Judges may order the witnesses examined or tendered for examination in the Police Court in the cases on either side, to be further examined if it shall appear to them to be necessary for the due determination of the appeal, and the Registrar of the said Court shall immediately on the determination of the said appeal certify under his hand and seal to the said Justices of the Peace or Magistrate, the judgment of the said Court on such appeal, whereupon the said Justices of the Peace or Magistrate shall forthwith put into execution the said judgment: Provided always, that no such adjudication shall be overruled or altered by reason of defect of form in the charge, evidence, or adjudication or other proceeding, nor otherwise than on the merits of the case, so as substantial justice shall best be attainable and without reference to form.

Rules for hearing appeals

Judgment of Court.

Costs

Further evidence.

Registrar of Court to certify the judgment of Court

Execution of judgment

No appeal for mere defect of form

58. On any trial before any Justices of the Peace or Magistrate, and in any proceedings on appeal in the Court of Judicature, relating in any of the above cases to any seizure of contraband articles under this Act, it shall be lawful for the Judges of the said Court and for the Justices of the Peace and Magistrate, and they are hereby respectively authorized and required, to proceed to trial and hearing of appeals on the merits of the case without reference to matters of form, and without enquiring into the matter or form of making any seizure.

Seizures not to be enquired into

Trials to be on merits

59. All actions and prosecutions against any person, which may be lawfully brought for any thing done under the provisions of this Act, shall be commenced within three months after the act complained of shall have been committed, and not otherwise; and notice in writing of such action and of the cause thereof shall be given

Actions

Limitation, three months

Notice of action.

given to the defendant one month at least before the commencement of the action; and in every such action, it shall be expressly alleged in the petition of complaint that the act complained of was done maliciously and without reasonable or probable cause, and if at the trial of any such action, upon the general issue being pleaded as hereinafter provided, the plaintiff shall fail to prove such allegation, he shall be nonsuited, or a verdict shall be given for the defendant.

Malice.

Nonsuit.

60. The defendant in any such action may plead the general issue, and give this Act and the special matter in evidence at any trial to be had thereupon; and no plaintiff shall recover in any such action, if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money shall have been paid into Court after such action brought, by or on behalf of the defendant, and if a verdict shall pass for the defendant, or the plaintiff shall become nonsuit or discontinue any such action, or if upon demurrer or otherwise judgment shall be given against the plaintiff, the defendant shall recover his full costs as between attorney and client, and have the like remedy for the same as any defendant hath by law in other cases; and though a verdict shall be given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant unless the Judge before whom the trial shall be shall certify his approbation of the action and of the verdict obtained thereupon.

Plea of general issue.

Evidence.

Tender of amends.

Payment into Court.

Judgment for defendant.

Full costs.

Judgment for plaintiff.

Judge to certify for costs.

61. All permits required to be granted by the Registrar of Exports and Imports or any Farmer, and all licenses granted under this Act, shall be exempt from stamp duties.

Stamp duties.

62. Any person who shall counterfeit, erase, alter or falsify any license authorized to be issued by this Act, or any permit required to be granted by this Act, or who shall alter or publish as true any such counterfeited, erased, altered or falsified license, knowing the same to be counterfeited, erased, altered or falsified, shall, on conviction thereof in the Court of Judicature, be punished by imprisonment for any period not exceeding five years, with or without hard labour, or in the discretion of the said Court shall be liable to a penalty not exceeding one thousand dollars.

Counterfeiting licenses and permits.

Penalty.

63. The

63. The Schedules to this Act annexed, and the directions and forms therein contained, shall be deemed and taken to be parts of this Act, and the several blank spaces in the said forms shall be filled up as required by the provisions of this Act relating thereto.

Schedules and forms to be read as part of Act.

Blanks in forms.

Interpretation of Words.

Interpretation Clause.

64. *Clause* 1.—In this Act, unless there be something repugnant in the subject or context,—

"Local Government" shall mean the Governor of the Settlement or other person performing the duties of Governor at the Station in which the Governor or such other person may then be resident, and the Resident Councillors or other persons performing the duties of Resident Councillors at the Stations in which the Governor or such other person may not then be residing.

"Local Government".

"Settlement" shall mean the Settlement of Prince of Wales' Island, Singapore and Malacca, with the places now or at any time hereafter to be subordinate or attached thereto, and shall include such portion of the sea along the shores of the said Settlement as may be within the local limits of the jurisdiction of the Court of Judicature of the said Settlement.

"Settlement."

"Station" shall mean any one of the Stations of Prince of Wales' Island, Singapore and Malacca, and the places now or at any time hereafter to be subordinate or attached thereto, and shall include such portion of the sea along the shores of the said Station as is within the local limits of the jurisdiction of the Court of Judicature of the said Settlement.

"Station."

"Court of Judicature" shall mean Her Majesty's Court of Judicature of the Settlement of Prince of Wales' Island, Singapore and Malacca, and the several Divisions thereof.

"Court of Judicature."

"Opium" shall mean any kind of Opium not prepared for smoking, chewing or eating.

"Opium."

"Chandoo" shall mean any preparation of Opium or any preparation in which Opium forms an ingredient, used for smoking, chewing or eating.

"Chandoo."

"Chandoo

"Chandoo Dross" shall mean Chandoo already used for smoking.

"Chandoo Dross."

"Spirituous Liquors" shall include spirits, or distilled waters intended for human consumption, and any liqueur or compound of spirits with fruit, sugar, honey or other sweet or bitter principle, or vegetable production.

"Spirituous Liquors."

"Toddy" shall mean the juice prepared or unprepared of the cocoanut or other tree of the palm species.

"Toddy."

"Bhang" shall mean any intoxicating drug or vegetable production other than Opium used for smoking or eating as a stimulant or narcotic in its raw or prepared state, except medical preparations kept and administered by medical practitioners as medicines for the cure or relief of diseased persons.

"Bhang."

"Importer" shall mean the person who shall take or receive from on board any ship, whether lying within or without the jurisdiction of the Court of Judicature, and who shall bring or cause to be brought to land within the Settlement of Prince of Wales' Island, Singapore and Malacca, any articles subject to duty or restrictions under this Act, and shall also include any person who shall bring or cause to be brought into the said Settlement any such articles by land.

"Importer."

"Chest of Opium" shall mean the package with the Opium contained therein, such as it is usually imported by merchants in the said Settlement.

"Chest of Opium."

"Ship" shall include every kind of vessel used for the conveyance of persons or things on fresh or salt water.

"Ship."

Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number.

Number.

Words importing the masculine gender shall include females.

Gender.

65. This Act may be cited for all purposes as "The Straits' Excise Act of 1866."

Short title.

SCHEDULE.

ACT No. XXX OF 1866.

SCHEDULE.

A.

EXCISE REVENUE.

Farmer's Contract.

(Farmer's name) having been declared to be the Farmer of for the term commencing on the day of 18 and ending on the day of 18 , and he having offered as sureties for the due fulfilment of the terms of this Contract (*or* and certain real [*or* personal] estate having been assigned by him to the Local Government as security by way of mortgage, under the provisions of the Straits' Excise Act of 1866, by the deed annexed to this Contract, *or* Dollars having been lodged in the local treasury by the said Farmer as a deposit). THIS CONTRACT between the Local Government and the said Farmer and his sureties and witnesseth that all the rights and privileges of Farmer of under the provisions of the Straits' Excise Act of 1866 are hereby vested in the said for the aforesaid term. The said (*Farmer*) and his sureties and for themselves, their executors, administrators and assigns, do hereby covenant and agree to pay to the Local Government, without demand, the sum of dollars monthly, on the last day of every month, commencing on the day of the month of 18 , and ending on the day of the month of 18 , as the rent of the said Farm, and further covenant and agree that the said Farmer shall well and faithfully observe, perform and fulfil the several provisions, conditions and stipulations contained in the said Act, so far as they relate to the management of the said Farm, or impose any duty or obligation on the said Farmer, in as full and ample a manner as if the said provisions, conditions and stipulations had been incorporated in this Contract: And they further covenant and agree, that if the said rent or any part thereof be unpaid for the space of days after any of the days on which the same ought to have been paid, or in case of the breach of any of the provisions, conditions and stipulations of the said Act so far as they relate to the said Farm or the said Farmer, then and in either of such cases, it shall be lawful for the Local Government to determine and put an end to the said rights and privileges and dispose of the same to other persons, and in the event of any loss arising therefrom, they further covenant and agree to make good the said loss to the Local Government: And they further covenant and agree that the said Farmer will make over to such person as may be invested with the rights and privileges of the Farm at for the term next after the term herein provided for, all the stock of exciseable

exciseable articles, and the machinery and vessels required for preparing such exciseable articles in the possession of the said Farmer at the end of the term herein provided for, at the marketable value of the said articles, machinery and vessels, and in the event of any difference arising as to the nature and quantity of articles, machinery and vessels so to be made over and the prices thereof, such difference shall be determined by three arbitrators, one to be appointed by the said Farmer, one by the person in whom the said rights and privileges may be vested or intended to be vested for the next succeeding term, and one by the Local Government, and the award of such arbitrators or a majority of them shall be final, and the said arbitration or other settlement shall be held at such time before the end of the said term as to the Local Government may seem reasonable. It is further covenanted and agreed that all deposits as well as all securities given by them shall be held by the Local Government till all questions between the said Farmer and his sureties and and the Local Government shall be finally disposed of, including matters relating to the transfer of the aforesaid exciseable articles, machinery and vessels, to the incoming Farmer, and it shall be lawful for the Local Government on breach of any of the covenants in this Contract, such breach and the amount of penalty therefor to be held and proved by indorsement on the back of this Contract by the Local Government, stating the breach and the amount of penalty therefor, to sell and dispose of all or any of the deposits or securities made and given under this Contract, without notice to the said Farmer, or his sureties and , and to nominate an Officer of the Local Government to execute all conveyances necessary for the transfer of any such securities, and out of the proceeds of such sale and disposition to satisfy and discharge any claims under this Contract against the said Farmer, and his sureties and , when the Local Government, after satisfying all such claims, shall return to the said Farmer the said deposits or so much thereof as shall remain, and shall surrender all securities held, or the remainder of such securities or of proceeds of sale of such securities, and this Contract shall be at an end: And it is further covenanted and agreed, that the rights and privileges hereby vested in the Farmer, shall not be assigned to any other person without the consent of the Local Government, and that such assignment, if so allowed, shall not be deemed to relieve the said Farmer and his sureties and from any liability under this Contract, and the said Farmer and his sureties, and do hereby bind themselves and any one or two of them, their and any one or two of their executors, administrators and assigns, in the sum of dollars for the due fulfilment by the said Farmer of this Contract.

Signed, Sealed, and *Delivered* at
this day of 18 by
for the Local Government,
and by Farmer and
sureties
In the presence of

STRAITS

ACT No. XXX OF 1866.

STRAITS EXCISE REVENUE.

Form of Mortgage.

I

do hereby assign to the Local Government as security for the due fulfilment of the terms of the Contract for the Farm at for the term commencing the first day of 18 and ending the thirtieth day of 18 under the Straits' Excise Act of 1866, all my right, title and interest in the land situate in the district of in and described in Government grant or lease No. dated the day of 18 and estimated to contain

and do hereby make over to the Local Government the title deeds of the said land. In the event of any breach of the covenants in the said Contract by the Farmer, no proof of which breach or of the amount of penalties, forfeitures, damages and losses arising therefrom shall be required further than the indorsement of the same on the back of the said Contract by the Chief Civil Authority in the said Settlement, I do hereby for myself, my executors, administrators and assigns authorize the Local Government to sell or otherwise dispose of the land hereby mortgaged, and out of the proceeds thereof to defray any penalties, forfeitures, damages and losses, or other liability to which by the said indorsement the said Farmer shall have been declared liable, and the balance, if any, to be paid to me, my executors, administrators or assigns. And the Local Government is hereby authorized to appoint an Officer of Government to execute for me, my executors, administrators and assigns all conveyances and instruments necessary for the sale or transfer of the said lands.

In Witness whereof, I have hereunto set my hand and seal this day of in the year 18

Signed, Sealed, and *Delivered,*
In the presence of

B.

EXCISE IMPORTS.

Bill of Specifications under Sections 6—11—15.

To the Registrar of Imports and Exports at

SIR,

Please to issue a permit to land from the ship (chests of Opium *or* gallons of Spirituous Liquors—*name of Liquor*—contained in casks—*number of bottles, number and description of case or package*— Chandoo Opium Dross package) within the hours from till on the day of 18 to be

be stored in the (godown, shop *or* house) of No. in Street at *or* the Office of Registrar of Imports and Exports.

Yours, &c.

Date *Importer.*

C

EXCISE IMPORTS PERMIT.

Under Sections 6—11—15.

A copy of this permit has been served on me.

(Opium) Farmer.

18

(is) authorized within the hours from till on the day of 18 to land from the Ship (chests of Opium *or* gallons of Spirituous Liquors—*name of Liquor*—contained in casks—*number of bottles and description of case or package* Chandoo Opium Dross package) and (is) required to store the same in the (godown, shop *or* house) of No. in Street at *or* the Office of Registrar of Imports and Exports at

Singapore,

Registrar of Imports & Exports.

Date

D.

EXCISE REVENUE—OPIUM.

Notice to remove under Section 6.

To the Registrar of Imports and Exports at

SIR,

Please to issue a permit for the removal of chests of Opium (*marks and numbers*) imported from by and stored under your permit dated the day of 18 in the godown, &c., of situate at in and afterwards removed to the godown, &c., of and thence to the godown, &c., of (*as often as may be necessary to set out the several removals*) from the godown, &c., of at to

to the godown, &c., of
situate at in

Yours, &c.,

Date

E.

EXCISE EXPORTS.

Bill of Particulars under Sections 6—11—12—18.

To the Registrar of Imports and Exports at

SIR,

Please to issue a permit to export by ship
(chests of Opium *or* gallons of Spirituous Liquors—*name of Liquor*—contained in casks—*number of bottles—number and description of case or package* Opium, Chandoo Opium Dross), within the hours from till
on the day of 18 to (*destination*)
the said having been purchased by me
from in whose (godown, shop *or* house) it is now stored (*or* the same being now stored in my godown, shop *or* house) at the same being now stored in your office, and sold by me to who is desirous of exporting.

Yours, &c.,

Exporter.

Date

F.

EXCISE EXPORTS PERMIT.

Under Sections 6—11—12—18.

Farmer.

(is) authorized to export by
ship to
(chests of Opium *or* gallons of Spirituous Liquors—*name of Liquor*—contained in casks—*number of bottles—number and description of case or package* Chandoo Opium Dross) within
the hours from till on
the day of
18 , the said ( ) having been purchased by the
exporter from the same being now
stored in the (godown, shop *or* house of situated at
or the same being now stored
in my office) and sold to
who is required to export in terms of this permit.

Registrar of Imports and Exports.

Date

Date

A copy of this permit has been served on me.

G.

FORM OF SEARCH WARRANT.

Under Sections 8—23—30.

To the (Opium) Farmer or any Revenue Officer duly appointed under the Straits' Excise Act of 1866 *or any Police Officer.*

To Wit. Whereas it appears to me, A B, one of Her Majesty's Justices of the Peace for the said Station, by the information on oath of that he hath good reason to believe and doth believe that (Opium *or* Spirituous Liquors) have been removed contrary to the provisions of the Straits' Excise Act, of 1866 from the (godown, store *or* house) of situated in (*or* that Toddy *or* Bhang is now being grown and prepared contrary to the provisions of the said Act, in the land of situated at).

These are, therefore, to authorize and require you to enter in the day-time with a Police Officer of this Station, of the rank of Inspector at least, the said and therein take an account in writing of all (Opium *or* Spirituous Liquors) found in the said (godown, store *or* house, *or* of all trees used for producing Toddy, and measure the quantity of land used for the growth of Bhang), and thereafter bring before me or some other of Her Majesty's Justices of the Peace at the said Station, at the Police Court at the said account in writing within days from the date hereof, and herein fail not.

Given under my hand and seal, at this day of 18

(Signed)

Justice of the Peace.

H.

EXCISE REVENUE LICENSE.

Under Section 33.

(1st Class).

Keeper of Hotel, situated in at duly licensed under Act of is hereby authorized under the provisions of the Straits' Excise Act of 1866 to sell Spirituous Liquors in the said (Hotel), so that the same be used and consumed on the premises.

A fee of dollars (100) has been paid for this license.

(Signed) *Commissioner of Police.*

Commissioner of Police.

Date

I.

k

ACT No. XXX OF 1866.

I.

EXCISE SPIRITUOUS LIQUORS.

Declaration by Importer under Section 15.

To the Spirit Farmer at

Take Notice, that of the quantity of
landed by me on the at from
the Ship and now stored in I hereby
declare gallons bottles to be
intended for use where stored and tender to you the sum of dollars,
being for the duty payable on the same under the Straits' Excise Act of 1866

Date *Importer.*

K.

EXCISE SPIRITS.

Notice to remove under Section 17.

To the Spirit Farmer at

Take Notice, that I desire to remove under Section 17 of the Straits' Excise Act of 1866 gallons bottles of contained in imported by on the day of 18 ex ship and now stored in at and I hereby tender to you payment of being the amount of duty chargeable on the same, and require from you a permit for the removal of the same from ( ) to the godown, shop *or* house of situated at *(or if duty already paid)* the duty on the said having been already paid by the Importer *(giving the name.)*

Yours, &c.,

Date *Importer.*

L.

EXCISE SPIRITS.

Permit to remove under Section 17.

(is) authorized to remove under Section 17 of the Straits' Excise Act of 1866, from ( ) to ( ) gallons bottles of contained in (*package*) imported by on the day of 18 ex ship

ex ship and now stored in at
and I acknowledge to have received from
the sum of dollars being the amount of duty chargeable on the same.

Date *Spirit Farmer.*

M.

EXCISE SPIRITS.

Notice to remove under Section 19.

To the Spirit Farmer at

SIR,

Please to issue your permit for the removal under Section 20 of the Straits' Excise Act of 1866, of gallons, &c., cases containing bottles, &c., of *(name of Spirituous Liquors)* imported and stored by in the godown of at and thence removed duty paid under your permit, dated the day of 18 to the godown, &c., of at *(state any further removals and dates of Farmer's permits)* where the said now lies, to the godown, &c. of at

Yours, &c.,

Date

N.

EXCISE SPIRITS.

Permit to remove under Section 19.

is hereby authorized to remove *(state as in application)* from the godown, &c., of at to the godown, &c., of at Duty on the said Spirituous Liquors having been paid by

Date *Spirit Farmer.*

O.

EXCISE SPIRITS.

Order to remove under Section 21.

To WIT. } Whereas application has been made to me, one of Her Majesty's Justices of the Peace for the said Station, for an order

order to remove *(here state full particulars as required by Section 20)* by *(name of applicant)* and whereas security to my satisfaction has been given by the said *(applicant)* for the amount of duty chargeable on the quantity of Spirituous Liquors intended to be removed, These are, therefore, to authorize the removal of *(here state particulars)* now stored in the godown of at to the godown of at there to be kept till further authorized to be removed under the provisions of the Straits' Excise Act of 1866.

Given under my hand and seal, at this day of 18

Justice of the Peace.

P.

EXCISE SPIRITUOUS LIQUORS.

Receipt by Spirit Farmer under Section 22.

I hereby acknowledge to have received from the sum of dollars being the sum payable as duty under the Straits' Excise Act of 1866, for gallons bottles of declared to be for use where stored by the said in the godown of at

Date *Spirit Farmer.*

Q.

EXCISE REVENUE LICENSE.

Under Section 34.

A fee of dollars has been received for this license.

Commissioner of Police.

is hereby authorized to keep a licensed shop for the sale of (Chandoo, &c., Spirituous Liquors *or* Toddy and Bhang) at (No.) Street Town (*or* in the village *or* district of) subject to the rules and regulations in that behalf, which rules and regulations have been read and explained to the said

Given at this day of 18

Commissioner of Police.

R.

EXCISE REVENUE.

Appointment of Revenue Officer under Section 16.

of in

is hereby, with the sanction of the Local Government, appointed to be a Revenue Officer under the Straits' Excise Act of 1866, and is hereby vested with all the rights, powers and immunities of such office under the provisions of the said Act.

Date *Commissioner of Police.*

S.

FORM OF SEARCH WARRANT.

Under Section 50.

To the Peace Officer or Officers within this Settlement, or to the Revenue Officer or Officers appointed according to the provisions of the Straits' Excise Act of 1866.

To WIT. { Whereas it appears to me, *A B*, one of Her Majesty's Justices of the Peace for the said *Station*, by the information on oath of *C D*, that he has good cause to believe and doth believe that articles subject to forfeiture under the provisions of the Straits' Excise Act of 1866, are concealed or deposited in the *dwelling-house, shop, or other building or place of E F, or on board the ship* now lying or being within the limits of the jurisdiction of the Court of Judicature of the said Settlement, These are, therefore, in the name of our said Lady the Queen, to authorize and require you, with necessary and proper assistants, to enter in the day-time into the said *dwelling-house, shop, or other building or place of the said E F, or on board the ship* now lying or being within the limits of the jurisdiction of the Court of Judicature in the said Settlement, and there diligently to search for the said articles, and also to authorize and require you, if a Peace Officer, and, if not, in the presence of a Peace Officer, to enter in the night-time (that is to say, at any time between the hours of six o'clock in the evening and six in the following morning) in the said *dwelling-house, shop, or other building or place of the said E F, or on board the ship* lying or being within the limits of the jurisdiction of the Court of Judicature in the said Settlement, and there diligently search for the said articles, and if the same shall be found upon such search, that you seize and take possession of the said articles so found, and also the body or bodies of any person or persons being in the said *dwelling-house, shop, or other building or place, or on board the ship*

lying

lying or being within the limits of the jurisdiction of the Court of Judicature in the said Settlement, in whose possession, custody or control any such articles may be found, or whom you may have good and sufficient reason to suspect had concealed or deposited therein any such article, and to bring the said articles and person or persons before me the said *A B* or some other of the Justices of our said Lady the Queen, assigned to keep the peace in the Settlement aforesaid, to be disposed of and dealt with according to law.

Given under my hand and seal at in the year

(Signed) *A B,*
Justice of the Peace.

T.

EXCISE REVENUE.

Recognizance under Section 51.

To Wit. Be it remembered that (*person charged*) and (*sureties*) appeared before the undersigned, one of Her Majesty's Justices of the Peace for this *Station,* and acknowledged themselves severally as well as jointly to be indebted to the Commissioner of Police at this *Station,* or his successor in office, in the sum of dollars to be levied in a summary manner, by distress and sale of the goods and effects of the said severally as well as jointly under the provisions of Section 51 of the Straits' Excise Act of 1866.

The condition of the above recognizance is such, that if the above bounden shall be and appear at the Police Court at on next, the day of 18 to be further dealt with according to law, and shall not depart therefrom without leave till lawfully discharged or convicted, then this recognizance to be void and of no effect, otherwise to stand in full force and virtue.

Taken and acknowledged before me,

Date *Justice of the Peace.*

V.

WARRANT OF COMMITMENT.

Under Section 51 *of the Straits' Excise Act of* 1866.

To Wit. Whereas and have been brought before me, one of Her Majesty's Justices of the Peace for the Station

by

by Revenue Officer appointed *or* by (*a Police Officer*) charged with (*here state charge*).

And whereas it appears to me that there is good reason to believe that an offence has been committed, for which the said ought to answer at the Police Court : and whereas the said has not found bail to my satisfaction to appear to answer the said charge :

These are, therefore, to authorize and require (*the said Revenue Officer*) to take the said (*prisoners*) to the principal Police Lock-up at there to be detained till (he) shall be brought before the Justices of the Peace, at the Police Court at to answer to the charge there to be preferred against (him) unless (he) shall before that time give bail to the satisfaction of any of Her Majesty's Justices of the Peace at this Station, for (his) appearance at the Police Court as aforesaid.

Witness my hand and seal, this day of 18

Justice of the Peace.

W.

FORM OF DISTRESS WARRANT.

Under Section 54.

To the Peace Officers, or to any Peace Officer of the said Station.

To Wit. { Whereas *A B* of has been on the day of 18 duly convicted before us (*C D* and *E F*, two of Her Majesty's Justices of the Peace, *or G H*, Magistrate of Police) for the said *Station* of the offence of

against the form of the Straits' Excise Act of 1866 in that case made and provided, and was thereupon adjudged by us that he the said *A B* had forfeited the sum of dollars for the offence aforesaid: and whereas the said *A B* being required to pay the said sum hath not paid the same, but therein has made default: These are to command you to distrain the goods and chattels of the said *A B* which may be found within this *Station*, to the amount of the said sum and such further sum as may be sufficient to defray the charges of making such distress, and if within five days next after such distress the said sum, together with the reasonable

reasonable charges for taking and keeping the said distress, shall not be paid, to sell the said goods and chattels, and having paid out of the money arising by such sale the said sum of dollars to us, to be applied according, to the provisions of the said Act, and having deducted the necessary charges for taking, keeping and selling the said distress, to return the overplus, if any, on demand to the person whom you shall find in possession of the said goods and chattels; and if no such distress can be made, that then you certify the same unto us, to the end that such further proceedings may be had thereon as to the law doth appertain.

Given under our hands and seals, this day of 18

C D,
E F,
Justices of the Peace,
or
G H,
Magistrate of Police.

X.

FORM OF COMMITMENT WHEN IT APPEARS THAT THE OFFENDER HAS NO GOODS WHEREON TO LEVY A DISTRESS.

Under Section 54.

To the Peace Officers, or any Peace Officer, and the Keeper of the Prison of the said Station, or Keeper of the House of Correction at the said Station.

To Wit. Whereas *A B* of was on the day of 18 , duly convicted before us, *C D* and *E F*, two of Her Majesty's Justices of the Peace, *or G H*, Magistrate of Police for the said *Station*, of the offence of
against the form of the Straits' Excise Act of 1866 in that case made and provided, and was thereupon adjudged by us, that he the said *A B* had forfeited the sum of dollars for the offence aforesaid, to be commuted in case of non-payment of the said sum to imprisonment for *with hard labour:* and whereas the said *A B* hath not paid the said sum, but therein hath made default, and it appears to us that the said *A B* has no goods or chattels whereon to levy a distress: These are, therefore, to command you, the said Peace Officers or Peace Officer, to take the said *A B* and him safely to convey to the prison of the said *Station*, and there to deliver him to the said Keeper thereof together with this precept, And we do hereby command you, the said Keeper of the said prison, to receive

receive the said *A B* into the said prison, there to imprison him *with hard labour* for the space of

Given under our hands and seals, at this day of 18

C D,
E F,
Justices of the Peace,
or
G H,
Magistrate of Police.

Y.

FORM OF COMMITMENT.

Under Section 54.

To the Peace Officers, or any Peace Officer, and the Keeper of the Prison of the said Station, or to the Keeper of the House of Correction at the said Station.

To Wit. { Whereas *A B* of was on the day of 18 , duly convicted before us (*C D* and *E F*, two of the Justices of the Peace, or *G H*, Magistrate of Police) for the said *Station*, of the offence of

against the form of the Straits' Excise Act of 1866 in that case made and provided, and was thereupon adjudged by us that he the said *A B* had forfeited the sum of dollars for the offence aforesaid, to be commuted in case of non-payment of the said sum to imprisonment for *with hard labour:* And whereas we have issued a distress warrant to levy the amount of the said sum by seizure and sale of the goods and chattels of the said *A B* within our jurisdiction, and no goods and chattels of the said *A B* have been found within such jurisdiction, and the said *A B* hath not yet paid the said sum, but therein hath made default: These are, therefore, to command you, the said Peace Officers or Peace Officer, to take the said *A B* and him safely to convey to the prison of the said *Station*, and there to deliver him to the said Keeper thereof together with this precept: And we do hereby command you, the said Keeper of the said prison, to receive the said *A B* into the said prison, there to imprison him *with hard labour* for the space of Given under our hands and seals at this day of 18

C D,
E F,
Justices of the Peace,
or
G H,
Magistrate of Police.

Z.

FORM OF CONVICTION.

Under Section 55.

To Wit. { Be it remembered that, on the day of in the year 18 , *A B* is found guilty before us, *C D* and *E F*, two of the Justices of the Peace, *or G H*, Magistrate of Police for the said *Station*, of the offence of

against the form of the Straits' Excise Act of 1866 in that case made and provided: And we do hereby convict him of the offence aforesaid, and do adjudge that he the said *A B* hath forfeited the sum of dollars for the offence aforesaid, to be commuted in case of non-payment of the said sum to imprisonment for *with hard labour.*

Given under our hands and seals, at the day and year first mentioned.

C D,
E F,
Justices of the Peace,
or
G H,
Magistrate of Police.

AA.

EXCISE REVENUE.

Notice of Appeal under Section 56.

In the Police Court at

In the case of
The (*Opium*) Farmer,
Complainant,
versus
M N,
Defendant.

To *A B*, Esq., and *C D*, Esq., Her Majesty's Justices of the Peace at
or E F, Esq., Magistrate of Police at

Take notice, that I intend to appeal to the Court of Judicature against your adjudication in the above-named case on the following grounds:—that is to say (*here state grounds of appeal in full*).

Yours, &c.,

Date

Complainant or Defendant.

BB.

ACT No. XXX of 1866.

BB.

EXCISE REVENUE APPEAL.

Under Section 56.

IN THE COURT OF JUDICATURE OF PRINCE OF WALES' ISLAND, SINGAPORE AND MALACCA:

Division of

In the Matter of
The (*Opium*) Farmer of
versus

Charge in full (*as in Charge or Summons*). Mr.
appeared as law agent for the Complainant, and Mr.
for the Defendant (*as the case may be*).

The case was called on in the Police Court in on the day of 18 before (Esq., a Magistrate of Police), *or* two of Her Majesty's Justices of the Peace for the Station, when the Defendant pleaded not guilty, and the following evidence was taken on oath for the prosecution:—(*here copy evidence for prosecution*).

The Defendant contended (*here state shortly the points of defence made by or for the Defendant*).

The following evidence was taken for the Defendant:—(*here copy evidence for defence*).

For the Complainant it was contended that (*here state shortly the argument in support of the Complainant's case*).

The following adjudication was then made by the undersigned:—(*here state decision*).

On the day of 18 (the Complainant *or* Defendant, *as the case may be*), gave notice to the undersigned of (his) intention to appeal and (has) lodged with (us) the sum of dollars for the copying of this transcript, and (has) given security to (my) satisfaction in the sum of dollars to answer the costs of this appeal, and in the further sum of dollars (*the amount of penalty*) for the due enforcement of the penalty awarded by (me) or to be awarded by the Court of Judicature, if necessary.

This transcript is therefore in terms of Section 56 of the Straits' Excise Act of 1866 transmitted to the Registrar of Her Majesty's Court of Judicature.

Given under (my) hand and seal, at this day of 18

Magistrate of Police,
or
Two Justices of the Peace.

CC.

CC.

EXCISE REVENUE.

Order to produce person confined under Section 56.

To the Sheriff of Prince of Wales' Island, Singapore and Malacca, or to the Keeper of the House of Correction at

These are to require you to bring before us or such other Justices of the Peace or Magistrate of Police as may be sitting at the Police Court, on next, the day of 18 the body of (*prisoner's name*) now in your custody, under warrant of commitment dated the day of 18 for an offence against the provisions of the Straits' Excise Act of 1866.

Given under our hands and seals, at this day of 18

Justice of the Peace, &c.

DD.

EXCISE REVENUE.

Recognizance of Bail under Section 56.

(*Defendant's name and sureties' names*) appear before us, and acknowledge themselves severally as well as jointly to be indebted to the Commissioner of Police at this Station, or his successor in office, in the sum of dollars for costs in an appeal by him forwarded under the Straits' Excise Act of 1866, and a further sum of dollars to answer a penalty adjudicated against the first above-named to be levied in a summary manner, by distress and sale of the goods and effects of the said severally as well as jointly under the provisions of Section 56 of the Straits' Excise Act of 1866.

The condition of this recognizance is such, that if the above bounden (*Defendant*) shall, if ordered thereto on appeal by the Court of Judicature, pay the amount of taxed costs of the said appeal (and shall further appear at this Police Court within two days after the hearing and decision of the said Court of Judicature on the said appeal) and surrender himself to undergo any sentence or pay any penalty which may be ordered by the said Court of Judicature on appeal, then this recognizance to be void and of no effect, otherwise to stand in full force and effect.

Taken and acknowledged at the Police Court at this day of 18

Justice of the Peace, &c.

GOVERNMENT OF BENGAL LEGISLATIVE DEPARTMENT

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Office Supdt. Govt. Printing.—No. 69 L. C.—10-4-67.—2,206.